





MARTIN KOSZTA—CORRESPONDENCE, &c.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*Copies of correspondence, &c., growing out of the seizure and rescue of
Martin Koszta.*

APRIL 14, 1854.—Ordered to be printed.

To the House of Representatives :

I transmit, herewith, a report from the Secretary of State, with accompanying documents, in compliance with the resolution of the House of Representatives of the 4th instant.

FRANKLIN PIERCE.

WASHINGTON, *April 12, 1854.*

DEPARTMENT OF STATE,

Washington, April 12, 1854.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 4th instant, requesting the President, "if not inconsistent with the public interest, to transmit to the House of Representatives copies of the correspondence, not now communicated, of the United States legation at Constantinople and the United States consulate at Smyrna with Captain Ingraham, and with the government of Austria, and with this government, together with the instructions from this government to their agents abroad, touching the seizure and rescue of Martin Koszta, and the terms and conditions on which he was liberated and sent to this country," has the honor to lay before the President a copy of the papers specified in the accompanying list, which, with those sent to the Senate on the 1st of March and the 5th of April, herewith enclosed, embrace all the correspondence on the subject not heretofore communicated to the House of Representatives.

Respectfully submitted :

W. L. MARCY.

To the PRESIDENT OF THE UNITED STATES.

LIST OF DOCUMENTS ACCOMPANYING THE REPORT OF THE SECRETARY
OF STATE TO THE PRESIDENT, OF THE 12TH APRIL, 1854.

Mr. Marcy to Mr. Dobbin, April 7, 1854.

Mr. Dobbin to Mr. Marcy, (with enclosures,) April 10, 1854.

NOTE.—For previous correspondence relating to the case of Martin Koszta, see House Ex. Doc. No. 1 and Senate Ex. Docs. Nos. 40 and 53.

Mr. Marcy to Mr. Dobbin.

DEPARTMENT OF STATE,

Washington, April 7, 1854.

SIR: In order to enable the President to comply with the request contained in the resolution of the House of Representatives, adopted on the 4th instant, a copy of which is enclosed, I will thank you to send to this department any information in the possession of the Navy Department touching the seizure and rescue of Martin Koszta, and the terms and conditions on which he was liberated and sent to this country, together with any instructions from the Navy Department to Captain Ingraham, relating to this subject, which has not been heretofore communicated to the House of Representatives.

I have the honor to be, sir, with the highest respect, your obedient servant,

WM. L. MARCY.

HON. JAMES C. DOBBIN,
Secretary of the Navy.

Mr. Dobbin to Mr. Marcy.

NAVY DEPARTMENT,

April 10, 1854.

SIR: I have the honor to acknowledge the receipt of your communication of the 7th instant, enclosing a copy of a resolution of the House of Representatives, adopted on the 4th instant, requesting of the President of the United States, if not inconsistent with the public interest, copies of the correspondence concerning the seizure and rescue of Martin Koszta, which have not heretofore been communicated to that body; and, in compliance with your request, I have the honor to transmit the correspondence which ensued between this department and Commodore Silas H. Stringham and Commodore Duncan N. Ingraham, in relation to the matters referred to.

With very great respect, I am, sir, your obedient servant,

J. C. DOBBIN.

HON. WM. L. MARCY,
Secretary of State.

UNITED STATES SHIP ST. LOUIS,
Smyrna, July 3, 1853.

SIR: It becomes my duty to report to you an affair at this place, in which I have taken upon myself to compromise the American flag.

I arrived here upon the 23d of June, and, soon after anchoring, was informed that an American had been kidnapped by the Austrian consul upon the Turkish soil, and sent on board an Austrian brig-of-war.

I sent for the American consul, and informed him of what I had heard. He told me the man was a Hungarian refugee, (named Martin Koszta,) who had a certificate of intention to become a citizen of the United States, and came here in an American vessel, but that he did not consider him under his protection, having, to his knowledge, no passport.

The consul and myself then went on board the brig and requested to see the commander, but were told he was not on board. We then went to the Austrian consul and demanded to see Koszta, which, after some demur, was granted. After a conversation with Koszta, I was afraid I had no right to demand him as a citizen of the United States, but determined neither to make a claim, nor acquiesce in his seizure, until I could hear from the legation at Constantinople. I was guided in this opinion by the consul, who seemed to think we could not use force without more evidence than the paper in his possession gave. I then requested the consul to write immediately to the legation, which he did. Before an answer could arrive, I received information that Koszta was to be sent to Trieste. I immediately wrote to the commander of the brig, protesting against this step, and received a verbal reply that he was ignorant of any such intention. Next morning, at daylight, I got under way and anchored within half-cable's length of the brig, and loaded my guns; the steamer, in which it was said Koszta was to be sent, being very near. At 11 a. m. an answer came from Mr. Brown, stating that Koszta was an American citizen, and advising the consul to give him all aid and sympathy, but in an unofficial way. I then told the consul he must insist upon Koszta remaining until I again heard from the chargé. He did so, when the Austrian consul told him he had intended to send the man that day, but would wait until the next mail. On Saturday, the 2d of July, the capon oglan of the legation arrived with letters from the chargé to the consul and myself to use stringent measures.

I immediately had an interview with Koszta, in which he claimed the protection of the American flag. I then addressed note "B" to the commander of the brig, demanding Koszta's release. I also directed the American consul to furnish the Austrian consul with a copy of the demand, which was done.

At this time the Austrian brig and a 10-gun schooner, that arrived the day before, prepared for action; having three mail steamers to assist. I did the same, and awaited the hour of 4 p. m. At 12 our consul came off with a proposition that Koszta should be delivered into the hands of the consul general of France, to be held at the joint order of the American and Austrian consuls until his nationality should be determined. After some consideration, and the advice of the English and French consuls to ours, I agreed to the terms. The prisoner was

then landed, amid the cheers of the inhabitants and every demonstration of joy. I know, sir, I have taken a fearful responsibility upon myself by this act; but after Mr. Brown had informed me Koszta had taken the oath of allegiance to the United States, and forsworn all allegiance to Austria; that he was an American citizen, and had been under the protection of the legation at Constantinople, I could not hesitate to believe he was fully entitled to protection. It was a case of life and death, for if Koszta had been taken to Trieste his fate was sealed; and could I have looked the American people in the face again if I had allowed a citizen to be executed, and not used the power in my hands to protect him for fear of doing too much? The easy manner, also, in which he was given up, and the convention that he should be held by a third party until his nationality could be established, is evidence that they were not sure of their ground.

Should my conduct be approved by you, sir, it will be one of the proudest moments of my life, that I have saved this gallant man from a cruel and ignominious death. On the other hand, should the course I have pursued be disavowed, I must bow to the decision; but whatever may be the consequences to myself, I shall feel I have done my best to support the honor of the flag, and not allow a citizen to be oppressed who claimed at my hands the protection of the flag.

I enclose copies of all the papers (A to E) relating to this affair.

I have the honor to be, very respectfully, your obedient servant,

D. N. INGRAHAM,

Commander.

Hon. J. C. DOBBIN,

Secretary of the Navy, Washington, D. C.

[Translation.]

E. K. BRIG HUSSAR,

Smyrna, June 29, 1853.

I had the honor to receive your letter of the 28th instant.

Concerning the matter respecting Martin Koszta, I request you, sir, to communicate with the consul general; as for myself I can do nothing in the matter, as I receive all my orders from him.

I have the honor to subscribe myself, with great respect, your obedient servant,

SCHWARZE.

To the COMMANDANT

of the United States Ship St. Louis.

U. S. NAVY DEPARTMENT,

Washington, August 19, 1853.

SIR: The department acknowledges the receipt of your communication bearing date the 3d of July, 1853, in which you relate the course you deemed it your duty to pursue, on being "informed that an Ameri-

can had been kidnapped by the Austrian consul upon the Turkish soil, and sent on board an Austrian brig-of-war;" and who, upon further investigation, was discovered to be a Hungarian—Martin Koszta—who had, in July, 1852, filed his declaration to become a citizen of the United States, and had arrived at Smyrna in an American vessel.

This department does not feel called upon to enlarge upon the various questions of international law involved in the proceedings adopted by the officers of the different governments concerned. Those questions may hereafter become subjects of discussion between the respective governments interested.

I deem it proper, at present, to content myself by assuring you that the prudence, promptness, and spirit which marked the part you bore in the transaction, is approved by this department.

It is a matter of gratulation that the affair terminated without a resort to collision and bloodshed.

The President desires that, on all occasions and in all parts of the globe visited by the American navy, the rights and the property of American citizens should be watched over with vigilance and protected with energy; but he, with no less earnestness, enjoins it upon the officers of the navy to exercise due caution to avoid the slightest infraction of the laws of nations, and scrupulously regard the rights of others. Respect the flags of other nations, and with the more pride you can demand respect for your own.

By the next steamer I may, probably, forward to you a copy of the instructions now in preparation at the State Department for our minister at Constantinople.

I am, respectfully, your obedient servant,

J. C. DOBBIN.

Commander D. N. INGRAHAM,

Commanding U. S. Sloop-of-war St. Louis, Mediterranean.

Extract from a despatch received at the Navy Department from Commodore Stringham, commanding United States squadron in the Mediterranean, dated flag-ship "Cumberland," Gulf of Spezzia, Sardinia, August 2, 1853.

SIR: I lose no time, after my arrival to this port, in transmitting to you the original documents from Commander Ingraham, of the corvette "St. Louis," relative to the affair of the refugee Martin Koszta, at Smyrna, and to which I have already had the honor to allude in my last despatch, of the 29th ultimo, from Leghorn.

In connexion with this subject, I have deemed it a duty to give my entire approbation to the course pursued by Commander Ingraham. The disorganized state of the Turkish empire at this period, more particularly in the confusion and lawlessness existing in the province of Smyrna, together with the total imbecility of the authorities of the city, in permitting the flagrant and illegal seizure of M. Koszta by a foreign power, and their lamentable supineness subsequent to the arrest, rendered, in my opinion, the demands of Commander Ingraham, backed

as they were by the positive and formal instructions of our chargé at Constantinople, perfectly justifiable. My only regret is that Commander Ingraham was not enabled to receive M. Koszta on board his ship, and await further action in the premises afterwards.

I have thus briefly expressed my views in regard to this matter, trusting the conduct of Commander Ingraham may be sanctioned by the department.

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[NOTE.—The letter of Commander Ingraham, transmitting documents relative to the Koszta affair, and referred to in the foregoing extract of Commodore Stringham's despatch, is identical with the one to the Secretary of the Navy, (herewith appended,) dated July 3, 1853.]

NAVY DEPARTMENT, *August 26, 1853.*

SIR: Your despatch No. 30, dated Gulf of Spezzia, August 2, 1853, with its enclosures, has been received.

The department concurs in the approbation expressed by you of the conduct of Commander Ingraham in the affair of Martin Koszta, at Smyrna, and had, previous to the receipt of your despatch, communicated its approval to Commander Ingraham, a copy of which was sent to you at Spezzia, under date of August 20, 1853.

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I am, respectfully, your obedient servant,

J. C. DOBBIN.

Commodore S. H. STRINGHAM,
Commanding U. S. Squadron, Mediterranean.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate, copies of all communications from the American Legation at Constantinople, respecting the seizure of Martin Koszta by the Austrian authorities at Smyrna.

MARCH 2, 1854.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of State, with accompanying documents, in compliance with their resolution of the 2d ultimo.

FRANKLIN PIERCE.

WASHINGTON, *March 1, 1854.*

DEPARTMENT OF STATE,
Washington, February 28, 1854.

The Secretary of State, to whom has been referred the resolution of the Senate of the 2d instant, requesting the President “to communicate to the Senate, if not incompatible with the public interest, copies of all communications from the American legation at Constantinople, respecting the seizure of Martin Koszta by Austrian authorities at Smyrna,” has the honor to lay before the President a copy of the documents called for by the resolution and specified in the accompanying list.

Respectfully submitted:

W. L. MARCY.

TO THE PRESIDENT OF THE UNITED STATES.

List of documents accompanying the report of the Secretary of State to the President, of the 28th February, 1854.

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| Mr. Brown to Mr. Marcy, (with enclosures,) | No. 41, June 28, 1853. |
| Do. do. (with enclosures,) | No. 42, July 5, 1853. |
| Mr. Marsh to Mr. Marcy, | No. 43, July 7, 1853. |
| Do. do. (extract,) | No. 45, July 11, 1853. |
| Do. do. (extract,) | No. 47, July 25, 1853. |
| Do. do. (extract,) | No. 48, Aug. 4, 1853. |
| Do. do. (with enclosures.) | No. 50, Aug. 17, 1853. |
| Do. do. (with enclosures,) | No. 54, Sept. 13, 1853. |
| Do. do. | No. 55, Sept. 14, 1853. |
| Mr. Brown to Mr. Marcy, | Sept. 23, 1853. |
| Mr. Marsh to Mr. Marcy, (with enclosures,) | Oct. 3, 1853. |
| Do. do. (extract,) | No. 59, Oct. 15, 1853. |
| Do. do. (with enclosures,) | No. 60, Oct. 20, 1853. |
| Do. do. (with enclosures,) | No. 62, Nov. 5, 1853. |
| Do. do. | No. 65, Dec. 14, 1853. |

No. 41.

Mr. Brown to Mr. Marcy.

LEGATION OF THE UNITED STATES, CONSTANTINOPLE,

June 28, 1853.

SIR: I have the honor to enclose copies of three letters relating to the apprehension of a Hungarian emigrant to the United States, named Martin Koszta, by a number of Greek ruffians, in the streets of Smyrna, and his imprisonment on board an Austrian brig-of-war now in that port, under circumstances so outrageous and inhuman, that I am sure they will excite the indignation of the government and people of the United States as strongly as they have of all the inhabitants of Smyrna and Constantinople.

The brutal conduct of the Austrian consul will, I trust, be disavowed by the minister at this capital; but I doubt whether the unappeasable thirst for the blood of the unfortunate Hungarian will permit him to do justice to my intercession in favor of the present victim.

I will not add how much is my execration for a government whose principles lead to such ends, nor how warmly I shall use all the means in my power to save the life of one who, though not wholly a citizen of the United States, nevertheless has strong claims upon my official interference in behalf of his existence.

I have as yet received no reply from the Austrian minister to my letter.

I have the honor to be, sir, with great respect, your obedient servant,
JOHN P. BROWN.

HON. W. M. L. MARCY,
Secretary of State of the United States.

P. S.—I am enabled also to enclose copy of the internuncio's reply.

A.

UNITED STATES CONSULATE, SMYRNA,

June 24, 1853.

SIR: I have the honor of laying before you the following occurrence.

Mr. Martin Koszta, one of the Hungarian refugees, who was in Governor Kossuth's suite on leaving Turkey for the United States, arrived here a few months since from New York, on the afternoon of the 21st instant; while he was seated on the marina he was seized by a band of armed men, without the concurrence of the local authority, and after having been treated in the most brutal manner, they threw him into the sea, where a boat was in waiting, and took him on board of an Austrian brig-of-war. This arbitrary act was done by the order of the Austrian consul.

Several deputations called on me, stating that Koszta had an American passport. I applied to the governor, informing him of the occurrence, stating that if the man had really an American passport, he was entitled to the protection of the United States; and under this supposition I requested him to have Koszta delivered up to me. The governor gave no definite reply, but intimated that he would refer the matter to Constantinople. This occurred on the night of the 21st. I continued my investigations to see if he really had an American passport, which I found not to be the case; the only document he had being a legalized copy of a declaration he had made in New York, under date 31st July, 1852, declaring his intention to become an American citizen.

On the morning of the 22d, the United States corvette *St. Louis* came in sight, and I thought proper to await her arrival before taking any further steps; and when she had come in, in the afternoon, I went on board and related the circumstance to Captain Ingraham, and, accompanied by him, proceeded to the Austrian brig, and interrogated Koszta on what grounds he claimed American protection, and if he had a passport. He replied that he had none, and had only the declaration already referred to, which, of course, deprived us of all right of claiming his release.

The European population is quite indignant at the conduct of the Austrian consul, and the emigrants are greatly agitated; threats and imprecations were made against the officers of the consulate and the brig.

Yesterday evening, two of the officers of the brig went to a coffee-house, and it is said they were warned of the rumors spread in town, in regard to the threats of the refugees. A short time after, several of the refugees entered the place and attacked them, both of whom were wounded, and one of them was found dead this morning.

Then it is clear that Koszta is not an American citizen, but it is certain he is a refugee, living in a foreign land, and has renounced all allegiance to the Emperor of Austria, and has declared on oath his intention of becoming a citizen of the United States.

It is true that the refugees who left with the *Mississippi* were not, according to the convention betwixt Turkey and the European powers, to return here; but Koszta's return, contrary to the convention, does not give Austria the right to act as she has done; and all she had the right to do, was to demand from the Turkish authority his expulsion

from this country, and it was only Turkey who had the right of interfering with him.

The precarious state of the refugees residing here has been greatly increased by these doings, and I have considered it my duty to lay the case before you, (the other consuls have also written to their embassies on the same subject,) so that you may take those steps which you consider proper for the release of said Koszta, and for the future protection of those other unfortunate exiles who are in this land.

I have the honor to be, sir, your obedient servant,

JOHN GRIFFITH, *for the Consul.*

J. P. BROWN, Esq.,

U. S. Chargé d'Affaires ad interim, Constantinople.

B.

LEGATION OF THE UNITED STATES, CONSTANTINOPLE,
June 27, 1853.

SIR: I have received your letter of the 24th instant, respecting the outrageous and inhuman conduct of the Austrian consul, of your city, towards the Hungarian refugee, Martin Koszta, who, though not possessing the full rights of a citizen of the United States, has, nevertheless, by the oath of allegiance which he has taken to the government of the United States, claims upon your friendly aid and intercession. I have addressed a letter to the internuncio, in which, after expressing my opinion freely of the barbarous conduct of the consul, interceded for Martin Koszta's immediate release from the brig-of-war and return to the United States.

I have to request that you will continue your officious intercession in behalf of Martin Koszta, both to the Austrian consul and the commander of the "Hussar." While I deplore the melancholy occurrence which resulted in the death of the young officer of the brig, I cannot but attribute it to the very inconsiderate and unaccountable conduct of the consul. I should have supposed that the neutral soil of the Sultan would have demanded more respect from the Austrian consul; and though the victim, unfortunately, does not possess a passport of the United States, yet his declaration of allegiance to their government merits the regard of the American consulate, and your friendly sympathy.

The act of the Austrian consul has, very naturally, excited the indignation of the inhabitants of Smyrna, as it has of every one here. The effect, everywhere, which it will make, will be most unfavorable to the Austrian government, and nowhere less than in the United States.

No convention was made, as you apprehend, apparently, between the government of the United States and the Porte, that the refugees should not return here; nor do I know of any between them and the Porte.

I have the honor to be, &c.,

JOHN P. BROWN.

EDWARD S. OFFLEY, Esq.,

United States Consul, Smyrna.

C.

LEGATION OF THE UNITED STATES, CONSTANTINOPLE,
June 27, 1853.

I have the honor to address your excellency on the subject of a most unfortunate occurrence, which, I am informed by the consul of my government in Smyrna, took place there on the 23d instant, and which I very deeply deplore, inasmuch as it resulted in the death of a young officer of the Austrian navy, who has thus, most probably without in any manner having been the cause of the unwarranted attack made upon himself and his companions in Smyrna, been the victim of the most inconsiderate and unaccountable conduct of the Austrian consul of that city towards an individual named Martin Koszta. This person, at the present moment incarcerated on board the Austrian brig-of-war "Hussar," now at Smyrna, is, I believe, one of the Hungarian refugees, who had been detained at Kutahia. Together with others, he was permitted to leave this country in 1851, and he proceeded with them to the United States, where he took the preliminary steps towards becoming a citizen of the United States; that is, he made a formal renunciation of all allegiance to any other power or sovereign whatever, and took the usual oath of allegiance to the government of the United States. A few months since, Mr. Koszta came to Smyrna from New York with the design of again proceeding to the United States. In the afternoon of the 21st instant, whilst seated on the marina of Smyrna, he was suddenly set upon by some fifteen ruffian Greeks, all armed, said to have been employed for that purpose by the Austrian consul, and, after having been treated in the most brutal manner, was thrown into the sea, where a boat was in waiting to receive and conduct him to the Austrian brig-of-war "Hussar."

Mr. Koszta, on leaving the United States, received a legalized copy of the declaration which he had made there of allegiance to the government of the United States, and which document, under ordinary circumstances, would recommend him to the friendly aid and consideration of American authorities. It cannot be conceived how this individual's temporary residence in the city of Smyrna could possibly excite the animosity of the Austrian consul to such a degree as to cause him, at a moment when he evidently had no reason to apprehend such an outrage, to be conveyed, in an ignominious manner, on board an Austrian vessel of war. It seems to me, rather, that in case his presence there incommoded the Austrian consul, the latter, at the most, would have called upon the local authorities to require his departure, and not, by an act of so outrageous and inhuman a nature, excite the indignation of the inhabitants of Smyrna, as I do not doubt it will of the people of the United States.

Permit me, therefore, to intercede with your excellency in behalf of Mr. Koszta, and to ask, if not out of the respect due for the government of the Sultan, whose territory has been so grossly violated by the conduct of the Austrian consul of Smyrna, at least out of regard for the government to which he has pledged his allegiance, that you be pleased to give orders to the commander of the "Hussar" for his immediate release, so that he may proceed to the United States.

I avail myself of the present opportunity of offering to your excellency assurances of my highest respect and most distinguished consideration.

JOHN P. BROWN.

MONS. L'INTERNONCE.

[Translation.]

BUYUKDERE, June 27, 1853.

MONSIEUR LE CHARGE D'AFFAIRES: By your communication of this day, you ask, monsieur le chargé d'affaires, for the release of one Martin Koszta, who was arrested by the consulate general of Austria at Smyrna, on the 22d instant.

I can only attribute this intervention on your part, sir, to some mistake, seeing that the individual in question is a native of Hungary, and that he has never ceased to be a subject of Austria, as it is proved by his declaration made in the presence of the consul of the United States established at Smyrna. His arrest, therefore, has been effected in virtue of treaties which secure to my government the full and complete independence of its jurisdiction over all its native subjects (nationaux) in Turkey.

You will easily understand, therefore, monsieur le chargé d'affaires, the utter impossibility in which I find myself to comply with the request you have just expressed to me in your communication aforesaid.

Please to accept, monsieur le chargé d'affaires, the assurance of my most distinguished consideration.

D. BRUCK.

Mr. BROWN,

Chargé d'Affaires of the United States of America, &c.

Mr. Brown to Mr. Marcy.

[No. 42.]

LEGATION OF THE U. S., CONSTANTINOPLE,

July 5, 1853.

SIR: I had the honor in my last despatch (No. 41,) June 28, to inform the department of the arrest of the Hungarian emigrant, Martin Koszta, by the Austrian consul of Smyrna, by means of a number of hired Greek ruffians, and of his incarceration on board an Austrian brig-of-war in the harbor of that place. I enclosed a copy of my letter on the subject to the Austrian internonce (minister) in behalf of Koszta, one of his reply, and one of my rejoinder to his excellency.

I would now request leave to state that the news of this transaction reached here on the 26th ultimo, and on the morning of the 27th I sent my letter of that date to the internonce. I also wrote a letter of instructions to the consul of the United States at Smyrna, of the same date, copy of which (No. 1) is here enclosed, requiring him to continue

to claim Koszta's release by the Austrians. On a subject of so much interest, I had hoped to have been favored with an early reply by the internonce; but in this I was disappointed, and only received an answer in the evening of the 29th, pre-dated on the 27th of June. I had, however, availed myself of the mail of the afternoon of the 28th, to write freely my opinion of the matter to Commander Ingraham, then at Smyrna, in the United States corvette St. Louis, (enclosure No. 2,) in which I stated that if I thought he would be governed by my instructions, as acting representative of the United States, at this place, they would be to demand Koszta's release on the ground of his expatriation by Austria, and of his oath of allegiance to the government of the United States; and, in case of a refusal, to take him out of the Austrian vessel.

The silence of the internonce from the 27th to the 29th was evidently intentional, with the view of leaving me in doubt as to his decision on my intercession in behalf of the sufferer; as he had, in the mean time, sent positive orders to the Austrian consul at Smyrna to have Koszta removed from the brig-of-war to an Austrian Lloyd's steam packet, which left here on the evening of the 27th, so as to be conveyed at once to Trieste, there, doubtless, to meet the fate of so many others of the unfortunate Hungarians who took part in the struggle of 1848-'49. The enclosure of my despatch No. 41, will have made the department acquainted with my answer to the internonce's refusal to accede to my intercession. I, at that period, did not possess a copy of Koszta's declaration of allegiance; but having its date, I filled one up with it, and sent it to the internonce. Another Hungarian emigrant to the United States, now under the protection of the legation at this place, is possessed of a similar document, with another from a public notary of the State of New York, and a passport given him by the United States legation at London, stating, in French, "qui a déclaré son intention de devenir citoyen des Etats Unis." That from the public notary of New York appeared to me to show, more distinctly, Koszta's right to the protection of all American authorities, especially to this *third* and *neutral* country, as an "affiliated citizen." I also communicated a copy of it to the internonce. Copies of these documents are herein enclosed, (Nos. 3 and 4.)

To my letter to the internonce of the 29th I received no reply, his excellency, doubtless, believing that in conformance with the instructions which he sent to Smyrna, Koszta had already been removed from the brig to the Austrian steamer, and sent to Trieste; and that he might therefore be indifferent to my remonstrances. However, on the 3d of July, his excellency learned from Smyrna that his plan had been thwarted by Commander Ingraham, who having been made acquainted with the design of removing Koszta during the night, had placed the corvette under his command in such a position, between the brig and the steamer, as to render the removal of the prisoner difficult without his knowledge of the fact. This secret design was also in bad faith towards Consul Offley, whose report (No. 5) shows that the Austrian consul of Smyrna had agreed with him to defer any action in the premises until the arrival of the next steamer from Constantinople, which would enable them to hear again on the subject from their respective legations.

The object of the next letter to me of the Austrian internonce, of the 3d of July, was to complain against the hostile position assumed by Commander Ingraham against the secret removal of Mr. Koszta, and to induce me to cease all further intercession in his behalf. To cover his discourtesy and silence towards me from the 29th of June, he stated in his letter that he had written to me *two* letters, one on the 27th and another on the 30th of June! As the assertion respecting the pretended letter of the 30th was certainly incorrect, (at least no letter of that date had reached me,) I replied to his excellency in a tone of dissatisfaction with this course of procedure, by my letter enclosed (No. 6) of the same day (July 3) His excellency now sent me (soon after receiving mine) a letter enclosing one dated the 30th, purporting to be a duplicate of the one which he wished me to believe he had actually written, but which I had never received.

On the 5th instant, the date of my present despatch, I received the reports of Consul Offley and Commander Ingraham, (Nos. 7 and 8,) informing me of their success in compelling the brutal consul of Austria at Smyrna to renounce the design of conveying his intended victim to Trieste, and of his having been delivered into the hands of the French consul at Smyrna, in whose hospital he now remains.

I have no doubt that Commander Ingraham warmly sympathized with me in my desire to save, if possible, the life of Mr. Koszta; yet I also apprehend, that had he not received my letter of the 28th, he would not have taken the decisive and firm steps which he did to effect it. By my letter of instructions (if indeed it can be so called,) he has been apparently governed; and the responsibility of his conduct will, consequently, rest greatly with myself. If the course pursued in this matter should, unfortunately, not meet with your approbation, I naturally expect, and would respectfully and earnestly request, the department to permit it, with its consequences, whatever they may be, to remain with me only.

In conclusion, I would also respectfully represent that Mr. Martin Costa, or *Koszta*, is one of the refugees from Hungary in 1849; that after sustaining a painful detention at Kutahia until 1851, he was expelled and banished from Turkey, on the demand of Austria, and that thus, exiled and expatriated, he sought a new country and a new home in the United States. There he made a formal renunciation of all allegiance to any other power or sovereign whatever, and took the usual oath of allegiance to the government of the United States. He remained there one year and eleven months, and then, for a temporary and private purpose, he embarked in an American merchant vessel for Smyrna, where he procured a *tezkerah* or Turkish passport, through the United States consul, to visit this place. When, after a short stay here, he was desirous of returning to Smyrna for the purpose of re-embarking in an American vessel for New York, he received another similar Turkish passport from this legation.

Under all ordinary circumstances, the declaration of his allegiance to my government, and his continuance in the design of becoming an American citizen, would recommend him to my aid and protection here. He could certainly appeal to no other official authority in this empire for the one or the other. From the Austrian authorities he

could only expect an ignominious death for the crime of devotion to his native country in 1848—whose sad fate has called for no warmer sympathy anywhere, than among the friends of liberty in my own country. Here some nationality is necessary to every foreigner. Mr. Koszta possessed none other than that which he had acquired by his allegiance to my country, and his residence at New York of nearly two years. Thus far, he had enjoyed the protection of my government through its consulate at Smyrna and legation at this capital, without any one having either denied his right to receive it, or theirs to give it to him. The brutal conduct of the Austrian consul at Smyrna, in employing a band of assassins to seize an unoffending man, and to have him conveyed in an ignominious manner on board of a vessel-of-war of his government, excited my indignation, as it did of every person here and in Smyrna—even of the Austrians. Once on board an Austrian brig-of-war, and loaded with fetters, he could look to no relief from his persecutors but in death; unless the representatives of the country to which he had pledged his allegiance would continue to him the aid and protection which he had enjoyed from it since his arrival in Turkey.

I therefore believe, sir, that in the decision I took to save Mr. Koszta's life, if possible, I endeavored to do my duty to humanity and to my country, and that my conduct will consequently receive your approval. The peculiar position in which he was placed by his past history, the illegal form of his arrest, the violence used in his detention, the neutral soil of Turkey from on which he was seized, and his *rights* to my protection, such as they were, form the basis of my action. I am confident that the success of the means used by Commander Ingraham will be applauded by every one here, and tend to elevate the character of my country in this distant land, as well as to increase the usefulness of its legation, an object which I have always much at heart.

I learn that it had been the design of the Austrian government to avail itself of the present embarrassed political position of the Porte to have as many of the Hungarian and Italian refugees as it could seize arrested, somewhat in the manner adopted against Koszta, and sent to Trieste in the same brig-of-war in which he had been confined; but that its ill success and public indignation excited by this first essay have arrested the whole procedure, and probably been the means of saving the lives of many other inoffensive individuals. In the view of serving the refugees at Smyrna and Constantinople, I called upon the British and French ambassadors, to invoke their benevolence in their favor. I may add that the Ottoman government does not admit that the Austrian government has the right of arresting political offenders in Turkey; nor that, by any treaty stipulations, it may arrest its own subjects by the means it used to seize upon Mr. Koszta.

I have the honor to enclose No. 9, copy of my instructions to the consul of the United States at Smyrna on this subject, and hope they will merit your approbation.

I have the honor to be, sir, with great respect, your obedient servant,
JOHN P. BROWN.

HON. WILLIAM L. MARCY,

Secretary of State of the United States.

A list of documents enclosed in despatch No. 42 from John P. Brown.

No. 1. J. P. Brown to consul Offley, June 27, 1853.

No. 2. J. P. Brown to Commander Ingraham, June 28, 1853.

Nos. 3 and 4. Documents of naturalization of Martin Koszta.

No. 5. Consul Offley to John P. Brown, June 30, 1853.

No. 6. J. P. Brown to Austrian inturrence, July 3, 1853. J. P. Brown to Austrian inturrence, June 29. Austrian inturrence to J. P. Brown, July 3, 1853. J. P. Brown to Austrian inturrence, July 4. United States consul at Smyrna to J. P. Brown, June 27, 1853.

Nos. 7 and 8. Commander Ingraham to the minister resident, (absent,) July 4, 1853, including his note to Austrian commander of the Hussar, of June 28, 1853; same to same, July 2, 1853; and reply of Austrian commander to Commander Ingraham, July 2, 1853.

No. 9. J. P. Brown to consul Offley, July 1, 1853.

John P. Brown to Ed. S. Offley, United States consul at Smyrna.

JUNE 27, 1853.

SIR: I have received your letter of the 24th instant, respecting the outrageous and inhuman conduct of the Austrian consul of your city towards the Hungarian refugee, Martin Koszta, who, though not possessing the full rights of a citizen of the United States, has, by the oath of allegiance which he has taken to the government of the United States, nevertheless, claims upon your friendly aid and intercession. I have addressed a letter to the Austrian inturrence, in which, after expressing my opinion freely of the barbarous conduct of the consul, I interceded for Mr. Koszta's immediate release from the brig, so that he may proceed to the United States.

I have to request that you will continue your officious intercession in behalf of Martin Koszta, both to the Austrian consul at Smyrna and the commander of the "Hussar."

Whilst I deplore the melancholy occurrence which resulted in the death of the young officer, I cannot but attribute it to the very inconsiderate and unaccountable conduct of the consul. I should have supposed that the neutral soil of the Sultan would have demanded more respect from the Austrian consulate; and though its victim, unfortunately, does not possess a passport of the United States, yet his declaration of allegiance to their government merits the regard of the American consulate and your friendly sympathy.

The act of the Austrian consul has, very naturally, excited the indignation of the inhabitants of Smyrna, and it has also that of every one here. The impression which it will make everywhere will be most unfavorable to the Austrian government, and certainly nowhere less so than in the United States. No convention was made, as you suppose, between the government of the United States and the Porte, that the refugees should not return here; nor do I know of any between the Porte and them.

I have the honor, &c.,

JOHN P. BROWN.

LEGATION OF THE UNITED STATES, PERA.

June 28, 1853.

DEAR SIR: I send you a copy of my letter to the Austrian inter-nuncio (minister) on the subject of the detention of Martin Koszta on board the Austrian brig-of-war "Hussar," which will serve to show my views of the transaction better than I could do in a note. The public here are quite as indignant at the brutal conduct of the Austrian consul as they were in Smyrna. Mussulman, Christian, and Jew execrate the conduct of the consul, and accuse him as the cause of the bloodshed which resulted from the brutal arrest and treatment of Koszta. The Porte would have been much pleased had you taken him from the Austrian brig, and I regret that it was not done on the ground that he had renounced all allegiance to the Austrian emperor, and taken an oath of allegiance to the government of the United States. He certainly *is not an Austrian subject*, and he certainly can claim no other allegiance to any other power than to that of the United States. It is not uncommon for persons having received official copies of their declaration of allegiance to procure an Austrian passport stating this fact, in which all protection and satisfaction is assured them from American authorities. I believe that, under the circumstances, you have a right to persist in demanding him from the Austrian commander. The Porte would wish to leave the matter open between us and the Austrians, and if *we* could see the poor fellow carried off and hung, to let us take the ignominy of the transaction on our own shoulders. If I thought you would be governed by my instructions, they would be to demand him, in the most formal and positive language, of the Austrian commander, in my name, as representative of the United States; and, after having him in your possession, leave the matter to be adjusted between the two governments. In case of a refusal to deliver him, founded on the pleas that he had renounced all allegiance to Austria, and that, having taken the oath of allegiance to the United States, he has a claim upon our protection, *I would take him out of the vessel*. Such a course will meet with the most profound applause from this government, and from every foreign legation here, except that of Austria, and cannot but call for strong gratification on the part of our government and people at home.

So abominable an act has excited here extreme abhorrence and execration; and all you have already done has elevated the character of our country and of our navy.

I remain, dear sir, most truly yours,

JOHN P. BROWN.

Commander INGRAHAM,

United States Corvette St. Louis.

Be so good as to allow Mr. Offley to peruse the present. I do not doubt but that he will support you in all you do.

J. P. BROWN.

MY DEAR SIR: I cordially approve of the measures of Mr. Brown in taking the exile Koszta per force, and do hope you will do so. So far

as my humble power goes, I will defend it. He is not an Austrian subject; he has sworn allegiance to the United States. Sure, this is enough to demand our protection, no matter what he says. Don't let this chance slip to acquit yourself nobly and do honor to our country. The Turkish governor, as well as the Austrian consul, have been both disgraced and dismissed. The eyes of nations are upon the little "St. Louis" and her commander. For God's sake, and the sake of humanity, stand for the right.

Regards and friendship of yours ever,
CALEB LYON, of Lyonsdale.

Note by Captain Ingraham.—I send a copy of Mr. Brown's letter for fear of any mistake.

1852.—STATE OF NEW YORK.

In the Court of Common Pleas for the city and county of New York.

I, Martin Koszta, do declare, on oath, that it is *bona fide* my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State or sovereignty whatever, and particularly to the emperor of Austria, of whom I am a subject.

MARTIN KOSZTA.

Sworn this 31st day of July, 1852.

GEORGE W. RIBLET, *Clerk.*

Clerk's office, Court of Common Pleas for the city and county of New York:

I certify that the foregoing is a true copy of an original declaration of intention, remaining of record in my office.

In witness whereof, I have hereunto signed my name and affixed the seal of said court, this 31st day of July, 1852.

[L. s.]

GEORGE W. RIBLET, *Clerk.*

UNITED STATES OF AMERICA, }
State of New York. } ss.

By this public instrument be it known, to all whom the same doth or may in anywise concern, that I, Joseph B. Nones, a public notary in and for the State of New York, by letters patent under the great seal of the State, duly commissioned and sworn, dwelling in the city of New York, do hereby certify that the persons named in the annexed paper appeared before me, and being duly sworn according to law,

each subscribed the declaration made by him, respectively, which I deem sufficient proof of the affiliated citizenship of the said _____, and I certify the annexed description of his person to be correct. I also certify the annexed affiliation paper from the State of New York to be genuine; and the said _____ having forever renounced all allegiance, except to the United States of America, and having conformed to the requirements of the several acts of Congress in such case made and provided, and having received his affiliation certificate, is entitled to all the benefits and protection of an affiliated citizen of the United States of America, and I hereby request all whom it may concern to permit safely and freely to pass the said _____, and in case of need to give him all lawful aid and protection.

In testimony whereof, I have subscribed my name, and caused my national seal of office to be hereunto affixed, the 28th day of [L. s.] July, in the year of our Lord one thousand eight hundred and fifty-two, in the 77th year of the Independence of these United States.

T. B. NONES,
Notary Public of the State of New York.

UNITED STATES CONSULATE, SMYRNA,
June 30, 1853.

SIR: I had the honor to receive, this morning, your letter in answer to mine of the 24th instant, referring to the arbitrary seizure of Martin Koszta, the Hungarian refugee; and since writing my above letter, I have been informed that he was not on board of the Mississippi with Kossuth, but that he formed one of his suite at Kutahia, and left Turkey by the English steamer.

I beg to enclose herewith a copy of the declaration made by Koszta in July, 1852, in the United States, stating his intention to become a citizen of the United States.

According to your instructions, I have again had an interview with the Austrian consul, and I used my best endeavors to effect Koszta's release, but I am sorry to state that they have been unavailing. The Austrian consul told me that he is acting under the orders of the internuncio, and that by the Trieste boat he received positive orders to send Koszta to Austria, and that he intended to send him yesterday in her. I told him that you had applied to the internuncio for Koszta's release, and that possibly by next week's boat he might receive contrary orders from Constantinople. After much opposition on the part of the Austrian consul to wait for any further instructions, he consented that Koszta should not be sent away until Saturday, when the boat from your place will come in.

I trust that your interference with the internuncio may have induced him to give contrary orders to the Austrian consul of this place, and that they will reach here by Saturday's boat.

There is a report in town that an Austrian steamer of war is coming here from Constantinople, with a commissioner from the Sublime Porte,

to take away the refugees that are in this place, many of whom are not even Austrian subjects.

On the evening of the day before yesterday, Captain Ingraham, commanding the *St. Louis*, received a letter stating that Koszta was to have been sent on board the Austrian steamer on the following morning, (at day-break,) that was to leave that day for Trieste, requesting his interference to hinder this act. Captain Ingraham addressed a letter to the commander of the Austrian brig, in behalf of Koszta, requesting that he should not be sent on board of the steamer until I should hear from the legation at Constantinople. The Austrian commander replied verbally that he did not know that the man was to be sent off. The next morning Captain Ingraham received a note from the captain of the brig, saying that he had nothing to do with Koszta, and that the question regarding him was in the hands of the Austrian consul general. Previous to the receipt of the note, the corvette had moved from the lower part of the bay near to the brig and mail steamer.

I have the honor to be, sir, your obedient,

E. S. OFFLEY.

J. P. BROWN, Esq.,

U. S. Chargé d'Affaires ad interim, Constantinople.

UNITED STATES CONSULATE, SMYRNA,

June 27, 1853.

SIR: On the 23d instant I had the honor of laying before you the occurrence that lately took place in this city in regard to the Hungarian refugee, Martin Koszta, of the steps I had taken in his behalf, and of the murder of an Austrian officer by the refugees, acting under the excitement of the arrest above referred to.

His highness applied to me, on the 25th instant, through his dragoman, requesting that I should arrest Ferdinando Baschish, a Hungarian refugee, holding a passport given by your legation; and that he, and the other refugees under this protection, should be sent to the local authorities to be examined by them in regard to the murder that had been committed; the dragoman also informed me that F. Baschish is the servant of the British chaplain of this place. In compliance to the governor's request, I immediately sent Mr. Griffith to effect the arrest as requested, and on going to the house he found the man there, who left the room to dress himself in order to go with Mr. G.; and, on the latter finding that he delayed to return, he was told that the man had disappeared, of which circumstance he informed the governor's dragoman, who replied that the man had not left the house, as he had placed policemen to guard it; and Mr. G. then authorized the dragoman to seize Baschish wherever he might be found.

I now beg you to inform me, if any refugees holding American passports should be seized by the local authorities to be put under trial for the murder of the Austrian officer, what am I to do in the case; am I to give them up to the Turkish authorities, or am I to protect them?

In an interview I had with the governor, accompanied by Captain Ingraham, I am inclined to believe that it is his opinion that the refu-

gees who have no consular protection will be given up to the Austrian consul. I lay this circumstance before you, in the certainty that you will use your influence in order that this act may be hindered. Among the refugees there are many upright and good men, who have behaved in the most exemplary manner since their arrival here. There are also many who are not Austrian subjects, and who were, until lately, under the protection of the Sardinian and other consulates, but who have been abandoned, under these circumstances, when they are more in need of protection than ever.

I would take the liberty of suggesting that, in case the local authorities should put the refugees to a trial, it would be well to use your influence conjointly with the English and French ambassadors, in order that it may be carried on impartially, and in the presence of a dragoon of each of those powers, so that justice may be done them.

I have the honor to be, respectfully, yours,

E. S. OFFLEY.

J. P. BROWN, Esq.,

U. S. Chargé d'Affaires ad interim, Constantinople.

[Translation.]

SMYRNA, July 2, 1853.

The undersigned, the consul general of Austria, and the consul of the United States, beg the consul general of his Majesty the emperor of the French to receive in deposite, in his prisons, the so-named Martin Koszta, (Martin Costa,) detained on board the Austrian brig-of-war "Hussar," whose nationality, and consequently the relations of protection, are being discussed between the respective embassies in Constantinople, as well as between the consulates at Smyrna.

They beg the consul general to take charge of this deposite on the following conditions:

The individual aforesaid shall be consigned, in the course of this day, and as soon as possible, to a detachment of soldiers belonging to the Austrian brig, who will conduct him to the landing of the French hospital, where he shall be delivered into the hands of the consul general of France, or of the person whom the latter may depute to receive him. The prisoner shall not be at liberty to communicate with any one outside, with the exception of the undersigned consuls; and in the hospital he shall be especially intrusted to one person, whom the consul general of France shall designate. The costs for the board and maintenance of the prisoner, which the undersigned leave entirely to the discretion of the consul general of France to determine, shall be discharged by the undersigned consul general of Austria.

It is expressly understood that the consul general of France is not to deliver up the prisoner, Martin Koszta, (Martin Costa,) except upon the requisition of both the undersigned.

E. S. OFFLEY,
Consul of the United States.
 VECK BECKER,
Consul General of Austria.

Correct copy: E. S. OFFLEY.

LEGATION OF THE UNITED STATES OF AMERICA,
Constantinople, June 29, 1853.

MONSIEUR L'INTERNONCE: I have just received the letter which you were pleased to write me, under date of the 27th of this month, on the subject of the individual named Martin Koszta, arrested at Smyrna, on the 21st instant, by the Austrian consul.

I am readily convinced, sir, that the means adopted by the Austrian consul to effect the arrest of the said individual could not merit your approbation; and, also, I do not feel myself at all called upon to express an opinion upon the *right* which you mention as possessed by your government over all of its own subjects in Turkey.

I cannot, however, deny myself the honor of once more addressing your excellency for the purpose of renewing the official intercession which I have already felt it my duty to make in behalf of this person; and, so as to enable your excellency to better appreciate the basis of my request, I have the honor to hand you, enclosed, the declaration which Mr. Koszta made at New York, on the 31st of July, 1852, "renouncing his allegiance to the emperor of Austria," and taking an oath of allegiance to the government of the United States of America.

The right of expatriation and of naturalization is recognised, I believe, by the government of Austria, as well as by other governments; and it seems to me that the arrest (without here referring to the means which the Austrian consul of Smyrna used to effect it) of the said Koszta, upon the neutral soil of Turkey, after the act of allegiance made by him, will be regarded by the government of the United States as being, not only a painful violation of these same rights of naturalization, but also, in consequence of my intercession, as a want of respect and regard towards my government, of which the impression will be removed with difficulty. I would not leave your excellency ignorant of the preceding facts; but rather, by communicating them to you, relieve myself from the responsibility which the arrest of Koszta, and the consequences which may grow out of it, may have in the minds of my government and countrymen.

It was on presenting this declaration of allegiance to the consulate of the United States of America at Smyrna, and to this legation, that the said Koszta was furnished with a *teskerch** to come to Constantinople, and to return to Smyrna, whence he was to start to New York. Since his arrival in Turkey he has resided under the protection of my government, and it is a pleasure to me to be able to state that his conduct has always been irreproachable. His fidelity to his native land—the only crime of which he is accused—leads him to declare himself always a *Hungarian*, and to state that he wishes even to meet his end as such.

Your excellency will pardon me for thus renewing my intercession in his favor. I beg your excellency to be pleased to have him delivered over to the local authorities of Smyrna, to be sent again to the United States.

This act will be learned by the President of the United States, I am confident, with satisfaction, and prevent the painful and extraordinary

* *Teskerch*, or permit, procured by the legation and consulates from the local authorities for all American travellers in Turkey.

news of his arrest becoming again the cause of the interruption of those friendly feelings between our respective countries, which I sincerely have it at heart to reconcile and to cultivate.

Accept, &c.

JOHN P. BROWN.

His Excellency **BARON DE BRUCK**,

Envoy and Internonce of H. I. M. the Emperor of Austria.

[Translation.]

BUYUKDERE, July 3, 1853.

MONSIEUR LE CHARGE D'AFFAIRES: I have just this moment received advices from the consul general of Austria at Smyrna, informing me that the commander of the American sloop-of-war "St. Louis" did, on the 29th of June, assume a hostile attitude towards the Austrian brig "Hussar," placing himself alongside of that vessel, and causing his guns to be loaded. This demonstration was preceded by a letter, a copy of which is herewith enclosed, which the commander of the American vessel addressed on the 28th of June to the commander of the Austrian brig. That letter states that said American commander considers himself justified in preventing the departure of Martin Koszta, who was arrested on board the "Hussar," until an order shall have arrived from the United States legation at Constantinople, seeing that Koszta is in possession of a paper setting forth his intention to become a citizen of the United States, and that Koszta had passed some time in America.

It would be difficult to justify, by this circumstance, the proceedings above mentioned, seeing that it does not in any way prove that Koszta had ever acquired naturalization in America. Consequently it follows that he has never ceased to be a subject of Austria, and any attempt to withdraw him by forcible means from the jurisdiction of the imperial authorities, could not be considered in any other light than as an outrage against the principles of the law of nations. Having already had the honor, Monsieur le Chargé d'Affaires, of giving you every explanation concerning Martin Koszta, in my letters of the 27th and 30th of June, I have only to beg that you will, without delay, order the captain of the sloop-of-war "St. Louis" to abstain from any further interference in this matter, and thus to put an end to an aggression which is as inexplicable as it is unlawful.

I entreat you, at the same time, to inform me, as soon as possible, of the course you may have been pleased to pursue, in view of my present action, in order that I may, in my turn, apprise the consul general of Austria, at Smyrna, in relation thereto.

Please to accept, Monsieur le Chargé d'Affaires, the assurance of my most distinguished consideration.

V. BRUCK.

UNITED STATES SHIP ST. LOUIS,
Smyrna Roads, evening, June 28, 1853.

SIR: I have this moment received a letter stating that M. Koszta was to be sent on board the steamer to-morrow at daylight, to be sent to Trieste. I have been only waiting to hear from the minister at Constantinople, before I took some action in the case of Koszta, as he has a paper stating his intention of becoming a citizen of the United States. He came here in an American vessel, and has been some time in the United States.

I earnestly protest against his leaving this port before something has been heard from Constantinople.

Respectfully, your obedient servant,
 INGRAHAM, *Commander.*

To the COMMANDER of the *Austrian brig "Hussar."*

LEGATION OF THE UNITED STATES OF AMERICA,
Constantinople, July 3, 1853.

MONSIEUR L'INTERNONCE: I have just received the letter which you were so good as to write me of this date, in which you state that you have addressed me *two letters* (of the 27th and 30th of June) on the subject of my remonstrances against the barbarous conduct of the Austrian consul at Smyrna on the person of the individual named Martin Koszta, an affiliated citizen of the United States, whose formal declaration I had the honor, on the 29th of the past month, to communicate to you, "renouncing his allegiance to the emperor of Austria," and comprising his oath of allegiance to the government of the United States of America on the 31st of July, 1852. This act of arrest, also, took place on the neutral soil of Turkey, where this person possessed the protection both of my government and of that of his imperial Majesty the Sultan.

Although your excellency is so good as to tell me that you have written me an answer to my aforesaid remonstrances of the 29th of the past month, I have not received any, which silence on your part I can only regard as a want of respect towards me. When I shall have received it, (your excellency says it was written on the 30th,) I shall be better able to reply to your note of to-day.

I beg your excellency to accept the assurances of my very distinguished consideration.

JOHN P. BROWN.

P. S.—In the view of giving your excellency still another document, showing the rights of M. Koszta to the protection of the authorities of the government of the United States in Turkey, I embrace this occasion to present the enclosed.

J. P. B.

[Translation.]

BUYUKDERE, July 4, 1853.

MONSIEUR LE CHARGE D'AFFAIRES: I learn with regret, from your letters of yesterday, that my communication of the 30th of June has, from some cause of which I am ignorant, failed to reach you.

I have this moment despatched a clerk of the legation to the city, in order to have the matter explained; and I hasten, in the meanwhile, to send you, herewith enclosed, a copy of my note aforesaid.

Accept, Monsieur le Chargé d'Affaires, the assurance of my most distinguished consideration.

V. BRUCK.

To Mr. J. P. BROWN,

Chargé d'Affaires of the United States of America.

 [Translation.]

BUYUKDERE, June 30, 1853.

MONSIEUR LE CHARGE D'AFFAIRES: I have had the honor to receive your communication, in which, sir, you renew your request for the release of the individual Martin Koszta, basing your application upon the circumstance, that, previously to his departure for Turkey, he had sought to perform in New York the necessary formalities, in order to be received as a citizen of the United States.

The explanations you have kindly furnished me with on this subject, and for which, sir, I cannot but thank you, cannot, however, produce any change in the measures that have been taken in regard to said individual, whom it is impossible for me to consider, under any circumstances, as belonging to a foreign jurisdiction, inasmuch as the ties which bind him to Austria have not been legally dissolved.

Referring, therefore, to my reply of the day before yesterday, concerning the arrest of Martin Koszta, who will be immediately conveyed to Austria, I think it my duty to remark to you, Monsieur le Chargé d'Affaires, in case you should intend to continue your applications in his behalf, that any overtures to that effect would be entirely useless, unless directly addressed to the imperial cabinet by the representative of your government at Vienna. I think, moreover, I can assure you, sir, that the individual in question will find his surest guaranty of a just and indulgent treatment in the wisdom and foresight of Austrian law, and especially in the clemency and magnanimity of my august sovereign.

Please to accept, Monsieur le Chargé d'Affaires, the assurance of my most distinguished consideration.

V. BRUCK.

UNITED STATES CONSULATE, SMYRNA,
July 4, 1853.

SIR : I have the honor to acknowledge the receipt of your two letters, under date 30th ultimo, enclosing one for Commander Ingraham, and your correspondence with the Austrian internuncio, in reference to the refugee, Mr. Martin Koszta, as well as your letter to the honorable Secretary of State, which, according to your instructions, I have opened and perused, and shall forward by the first French mail that leaves here for the United States, all of which were handed me early on the morning of the 2d instant by Mr. Alex, the capon oglan of the legation. On receipt of said letters I immediately went on board of the St. Louis, and gave Commander Ingraham your letter, and read him all your correspondence on this matter, and we agreed that he should go on board of the "Hussar" to have another interview with Koszta.

On Captain Ingraham's return from the brig, he told me that when on board the brig he had demanded Koszta's release, and had given the captain three hours' delay for the release aforementioned, (till 11 a. m.)

As I thought that this delay was not sufficient to do the needful under the circumstances, I suggested to Commander Ingraham the propriety of extending it till 4 p. m., in the hope that I might come to some satisfactory conclusion with the Austrian consul, so as to avoid the effusion of blood, and in order to avoid all the consequences that might have ensued if his release had been effected by force. Captain Ingraham agreed to my suggestions, and wrote a letter to the captain of the brig (enclosed copy A,) demanding Koszta's release by 4 p. m. I then went to the Austrian consul, and took with me a copy of Captain Ingraham's letter to the Austrian commander, and used all my efforts in order that Commander Ingraham's demand should be complied with. After a very long debate, in which the Austrian consul most positively persisted in refusing to give him up, I then explained to him the consequences that would no doubt ensue, should he persist in his refusal; and he then offered to make an agreement with me that Koszta should not be sent away "for a week, a month, or even a year," until the question should be settled by the legation and embassy at Constantinople. I then took this opening to effect a negotiation with him; and after many difficulties he agreed to enter into a convention with me, (copy of which I herein enclose sub) wherein it is stipulated that Koszta is to be delivered to the French consul, to be kept by him until a collective demand should be made by us two for his release.

Captain Ingraham having approved of the conditions stipulated betwixt the Austrian consul and myself, Koszta was on the afternoon of the same day sent ashore. I need hardly say that the excitement in town was very great. An immense concourse of people were present on his landing, and *vive l'Amerique*, and her gallant officers who saved Koszta from Austrian barbarity, was in the mouths of all present, and the heartfelt thanks of all the European population have been given to our country on this occasion.

It is fortunate for Koszta that force was not used for his release, as it is very probable that he would have been shot by the Austrians on the first attack that might have been made on the brig. Besides the brig,

the Austrians had a schooner of war, and three of Lloyd's steamers were in port.

Yesterday I received your letter of the 1st instant, and I sent my dragoman this morning to Chekib Effendi, the commissioner sent by the Porte to inform him of my desire, and that of Captain Ingraham, for seeing him, and to request him to appoint an hour for that purpose. He informed me in reply that he regretted he would not be able to see us to-day, or to-morrow, as the steamer in which he came will leave to-morrow for Constantinople, and he is extremely busy for her departure. I have heard, however, that the *Austrian consul* has had an interview with him, and that the French consul has been refused an interview under the same plea that he has made to me.

I feel certain, now that Koszta is out of the clutches of Austria, that he will not again fall into her hands.

The indignation of every one here (Turks not omitted) has been aroused against "Ali Mead Effendi," to whom the arrest of Koszta and all the persecutions that have taken place against the refugees are attributed. I have no doubt that you have continued your efforts with the English and French ambassadors in order that the position of the unfortunate refugees may be ameliorated.

Captain Ingraham thinks of leaving soon to join the commodore, to report the whole transaction. Under the circumstances it would be well that the sloop *Levant*, if at Constantinople, should be sent down here until the present difficulties are settled.

I remain, sir, in haste, your very obedient servant,

E. S. OFFLEY.

J. P. BROWN, Esq.,

United States Chargé d'Affaires, Constantinople.

UNITED STATES SHIP ST. LOUIS,

Smyrna Roads, evening, June 28, 1853.

SIR: I have this moment received a letter stating that Martin Koszta was to be sent on board the steamer to-morrow, at daylight, to be sent to Trieste. I have been only waiting to hear from the minister at Constantinople before I took some action in the case of Koszta. As he has a paper stating his intention of becoming a citizen of the United States, I earnestly protest against his leaving this port before something has been heard from Constantinople.

Very respectfully, your obedient servant,

D. M. INGRAHAM,

Commander.

To the COMMANDER of the *Austrian brig "Hussar."*

UNITED STATES SHIP ST. LOUIS,

Smyrna, July 2, 1853.

SIR: I have been directed by the American chargé at Constantinople to demand the person of Martin Koszta, a citizen of the United States

taken by force on Turkish soil, and now confined on board the brig "Hussar;" and if a refusal is given, to take him by force.

An answer to this demand must be returned by 4 o'clock p. m.

Very respectfully, your obedient servant,

D. M. INGRAHAM,

Commander.

To the COMMANDER of the Austrian brig "Hussar."

[Translation.]

H. M. BRIG HUSSAR,

Smyrna, July 2, 1853.

As I have the honor to refer to my letter of the 26th instant, in which I stated to you that I altogether depend from (upon) the consul general concerning the matter respecting the prisoner Martin Koszta, I shall send to him your letter of this day, and I shall state to him to come to an understanding with you himself.

In case of any violence against his Majesty's brig "Hussar," or schooner Artinisia, I must protest, and I should consider it again as a hostile step, for which I would hold you responsible altogether.

SCHWARZ.

To the COMMANDER of the U. S. ship *St. Louis*.

UNITED STATES SHIP ST. LOUIS,

Smyrna, July 4, 1853.

SIR: Upon the receipt of Mr. Brown's letter of the 28th of June, brought down by the capon oglan of the legation, I requested from the commander of the brig "Hussar" another interview with Martin Koszta, which was granted. I asked Koszta how long he had been in the United States. He told me one year and eleven months. I then asked him if he had intended to settle in the United States; he answered "yes." I then said, "Do you demand the protection of the American flag?" He told me he did. He seemed much better at this interview than at the last. I was astonished to see by Mr. Brown's letter that Koszta declared himself on our first interview a Hungarian. I did not hear him say so. I now demanded his release from the Austrian commander as a citizen of the United States, by 4 o'clock p. m., (this was at 8 a. m.) or I should use force to take him out; and this was by direction of the acting chargé d'affaires of the United States at the Porte. He replied he had nothing to do with the prisoner, Mr. Koszta—I must settle that with the consul of Austria; but protested against any violence towards the brig and schooner, and would hold me responsible. He immediately hoisted sail and beat about the harbor. Mr. Offley, the United States consul, waited upon the Austrian consul, and they had a long and pretty hostile talk. The Austrian consul, by 11 o'clock a. m.,

agreed to deliver Koszta into the hands of the French consul, to be held by him subject to the joint order of the consuls of the United States and Austria, and not to be delivered without both signatures. I thought it best to agree to this, as once out of the brig he would be safe. And now, you gentlemen of the pen must uphold my act, as it was done in accordance with Mr. Brown's instructions, backed by Mr. Lyon's advice. Although not binding upon me, I felt I should respect their opinions.

The whole town was in a ferment, and Koszta was received at the wharf with three cheers. I know I have taken a very heavy responsibility; but as they had more guns than I had, (26,) although mine were larger, and three steamers to help them, they will not like to own it was fear that made them deliver up Koszta; so we must suppose it was a sense of returning justice. I shall sail soon to report to the commodore. I again hope you will back me in this affair.

Mr. Brown will show you the letter he wrote me. I enclose the answer of the captain of the brig. All the rest of the correspondence Mr. Offley will send you by the capon oglan.

I told Mr. Offley I hoped he would never sign for the delivery of Koszta until he could hear from the United States. In that case he will be safe, for every day will strengthen the sympathy felt for him. I suppose the internonce will make a terrible complaint against me to our government; but as they chose to yield, and I did not do what I threatened, I think they had better keep silent.

The French consul, I think, approves my course, although he does not say much. Some of the others shake their heads. I have written a much longer letter than I intended, as you will have everything from Mr. Offley. The Austrian consul, to show his spite to the last, did a thing we never could have supposed possible—landed Koszta in chains. The French consul, however, had them removed immediately.

Respectfully yours,

D. INGRAHAM, *Commander.*

GEO. P. MARSH, Esq.,

U. S. minister near the Ottoman Porte.

JULY 4.—The Austrian vessels of war have hoisted the American flag in honor of the day.

D. I.

I should like an answer immediately, as I feel anxious to hear what you think of my course in this business.

LEGATION OF THE UNITED STATES OF AMERICA,
Constantinople, July 1, 1853.

SIR: I was yesterday prevented from replying to your despatches of the 27th, by an erroneous impression which I had of the hour of departure of the steamer. I believe, also, that I dated my letters to you the 29th, when they should have been dated the 30th. As I confided them

to Alexan, the capon oylan of the legation, for safe delivery, I trust you will receive them.

On looking over the list of passports given by the legation, I find one dated the 24th January, 1851, to "*Buschish*," for *America*, which was vized the 25th of the same month. I presume that this is the person to whom you allude as "the servant of the British chaplain," and who has been demanded by the local authority of Smyrna, as suspected of having been implicated in the murder of the Austrian officer.

If an American citizen were accused of a crime committed on another foreigner, it would, according to the act of Congress of August 11, 1848, be clearly your duty to try him yourself, and not to permit him to appear before the local authorities; yet, on accusation of a crime against an Ottoman subject, the authorities would, I believe, from what is practised here, have a right to claim his trial. You will perceive that I have interceded in behalf of Martin Koszta, on the ground of his expatriation, and act of allegiance to the United States, and the circumstance of his being in the territory of a third government.

I apprehend that I could not expect that an official intercession for him (*Buschish*) on my part could be approved by the President, as he is only possessed of a passport given him by this legation, for the purpose of departure to the United States. The protection possessed by *Buschish* is, at most, but a nominal and temporary one, and may be disputed, with reason, by the Austrian consul, in case he is, or has been, an Austrian subject.

I would not, however, recommend you to cast him off, or withdraw, entirely, your protection or interest in him. Humanity forbids it, especially if you have reason to believe him innocent of the accusation imputed to him. You may, however, allow him to be judged by the local authority, and use the matter of the passport as a reason for being present, or represented at the court.

Under the present circumstances, it would not be advisable to refuse your protection to any individuals who may be now in Smyrna with passports given them in foreign countries. I believe that their passports will be respected by the Austrian consulate, and by the local authorities.

The position of those Tuscans and Hungarians who possess no passports is more critical, and your official protection cannot securely be acceded to them. In the view of benefitting them, I called on the 29th on Lord S. de Redcliffè and Mons. De la Cour, and interested them in their condition. These two ambassadors promised me to act together in their behalf, and to speak with the internonce on the subject. The Sardinian minister is also, I believe, warmly interested in their favor. His excellency Rechid Pacha informed me, on the 29th, that all Tuscans, without other protection, (passports,) would be given up, on demand, to the Austrian consul. Chekib Effendi, a person of high rank and much experience, but who, I suspect, is rather of the temporizing party, goes to Smyrna as commissioner on this matter.

Later.—I have been invited to a conference with Chekib Effendi, and we discussed the affair at length. He asserts that the Austrian government does not possess the power by treaty to arrest any one on Otto-

man soil for political offences. He says that Koszta must be returned to the local authorities of Smyrna, which, if he be really an inconvenience to Austria, will expel him from Turkey. I discussed with him the matter of expatriation and naturalization, with which he is well acquainted, and he says that Koszta is expatriated, and so far naturalized that no Austrian functionary has any right to arrest him on the neutral soil of Turkey. He will, therefore, I believe, demand this of the Austrians at Smyrna, and I suppose his opinions are based upon his instructions. This agrees wholly with the opinion of Lord Stratford.

The opinion everywhere is, that Captain Ingraham has the Austrian brig under his guns, and will not permit it to leave Smyrna until the question is settled. I need not say that the opinion here is warmly in our favor; the conduct of the Austrian consul is so despicable that there is a profound sense of indignation here and everywhere against him. All the Turks, even the Persian chargé d'affaires, say that the "Yenghi Duny'd" (new world) is not to be so trifled with.

I have no reply to my second letter to the internonce as yet. I have sent a copy of my first to him, his answer, and my rejoinder to the same, with the declaration which M. Koszta made in New York, filled up with the date you gave me and his name, to H. H. Rechib Pacha.

I am in hopes the internonce will be staggered by the "declaration" and my argument, though the Austrians will with reluctance relinquish their victim. I have heard that he neither eats nor drinks, lest he be poisoned, and that to all interrogations he exclaims, "I am a Hungarian!" Also, that the Austrians have offered to free him if he will leave the country; but I doubt it.

The cause of humanity is so much concerned in the fate of Koszta, and the Hungarians generally, that I hope the Porte will follow good advice and maintain its rights. I am sure you will enter into my feelings in the matter, and effect them, if practicable. Please allow Captain Ingraham to peruse this. I trust he will find it convenient to spend some days in Smyrna until this matter is settled. I had hoped the pleasure of seeing him here. I would recommend you and him to call at once upon H. E. Chekib Effendi, who is a man of much good sense and firmness. He has asked me to support him among the foreign legations here, which I shall do, if he does what is right. Ali Pacha has been recalled to appease the internonce, on the ground that he did not send away all the refugees, and that *his* negligence caused the death of the Austrian officer.

I have the honor to be, &c.,

J. P. BROWN.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

Mr. Marsh to Mr. Marcy.

[No. 43.] LEGATION OF THE UNITED STATES, CONSTANTINOPLE,
July 7, 1853.

SIR: As I have already advised you, by my despatch of the 6th instant, I arrived here in the corvette *Levant*, on the 5th of the present month. On the same day the legation received letters from Mr. Consul Offley, of Smyrna, and Captain Ingraham, of the *St. Louis*, reporting the steps taken by them to procure the release of Koszta, and announcing the surrender of that individual by the Austrian authorities, upon certain conditions; which, as well as the other documents belonging to the case, accompany Mr. Brown's despatch of the 5th instant.

As all these events took place without my knowledge, and while I was absent under special instructions from the State Department, it does not, perhaps, belong to me to express any opinion in reference to them. At the same time, the importance of the principles involved in the case, and the magnitude of the consequences which may flow from it, will, I hope, be thought sufficient to justify me in submitting some observations in support of the course taken by Mr. Brown and by Captain Ingraham; and the rather because my official experience at Constantinople has rendered me somewhat familiar with the anomalous local laws and political relations by which the right of the case must, in a great measure, be determined.

The facts, briefly summed up, are these: Koszta is a native of Hungary, and by birth a subject of the emperor of Austria. He was concerned in the political disturbances of 1848-'49; and in the latter year, crossed the Turkish frontier in company with Kossuth and other Hungarian insurgents. After a detention of several months at Shumla, he was transported to Kutahia, in Asia Minor, and thence sent by the Turkish government to England, whence he emigrated to the United States.

It is notorious that soon after the entrance of these persons into the Turkish territory, the Austrian government had demanded their extradition, as criminals, under alleged treaty stipulations; that failing in this, it at various times, before their transportation to England, asked their expulsion from the Turkish territory; that it has repeatedly declared them banished, proscribed, and expatriated; and that it has, at all times, refused them protection as Austrian subjects.

Under these circumstances, Koszta emigrated to the United States, and immediately declared, in due form, before a court of competent jurisdiction, his intention of renouncing allegiance to the emperor of Austria, and becoming a citizen of the United States. After a residence of two years in America, he came to Smyrna for objects, as is believed, strictly personal and private: and having accomplished these objects, he prepared to embark for the United States. While at Smyrna he had occasion to visit Constantinople, and applied to the American consulate at the former city for a *teskereh* (Turkish passport) for that purpose. The consul furnished him the instrument, and upon returning to Smyrna he received another *teskereh* from Mr. Brown,

then in charge of the American legation. In both *teskerehs* Koszta was described as an American citizen, or *protegé*, and thus his claim to American protection had been distinctly allowed and recognised by the American authorities in Turkey.

While Koszta was waiting at Smyrna for an opportunity to sail for an American port, the Austrian consul at that city, as is reported, without instructions from the legation at Constantinople, and upon his own responsibility, determined to seize him and send him to Austria. For this purpose he employed a band of desperadoes, notorious in Smyrna as robbers and assassins, who were neither, in any sense, official persons, nor provided with any legal or other written warrant to seize him, by brute force, and put him on board an Austrian brig-of-war which sent a boat to receive him. Having given the order, the consul applied to the governor of Smyrna for authority to arrest Koszta, and transport him to Austria. The governor refused his consent, but said that he would himself forthwith arrest him, and expel him from Turkey. The orders of the consul were, nevertheless, executed, and with circumstances of great brutality, as appears from the papers transmitted by Mr. Brown.

It is not pretended that Koszta had been guilty of any other offence than participation in the Hungarian revolutionary movements of 1848-'9, and it is even said that his arrest originated in a mistake of the person, and that the conduct of the consul has been disapproved by his superiors at Constantinople.

The correspondence reported to the department by Mr. Brown now took place, and Captain Ingraham interposed as you have already been advised.

The Turkish government does not complain that Captain Ingraham has committed any violation of its rights, or any encroachment upon its authority as a neutral power; and the case therefore does not necessarily assume the shape of a tripartite controversy. but, for the present purpose, may be considered as a simple question between the Austrian and American governments.

For the solution of the question, the two most important elements appear to be the formal legality of the seizure of Koszta and his right to claim American protection when restrained of his liberty by illegal violence.

By the general principles of international law, Turkey, as well as every other independent government, enjoys exclusive jurisdiction over all private persons within its territory including, of course, the right as well as the duty of protecting strangers, commorant in its States, against all illegal violence. The rights of European governments over their own subjects in Turkey are precisely what the local laws, and the treaties between the Porte and other powers, confer on them. Unless, then, Austria shows that the law of Turkey, and her treaties with that power, authorized in this case the arrest and removal of the prisoner, and that the arrest was made by such authority and in such form as those laws and treaties prescribe, it follows that his seizure and detention were illegal.

The Austrian authorities insist that the jurisdiction of Frank governments follows the person of the subject throughout the Turkish empire,

and claims over Koszta the same rights it would have possessed, and might have exercised, had he been found upon Austrian soil.

This claim is founded on the old French capitulations (which are the basis of the extraordinary exemptions and privileges enjoyed by the foreign legations and by Franks resident in the Ottoman empire,) and the modifications introduced by subsequent treaties.

By these capitulations and the older treaties, Turkey has surrendered to the foreign legations and consulates in the Ottoman empire general jurisdiction over the subjects of their respective governments in civil and criminal controversies relating to the personal or proprietary rights of *each other*, or of other Frank residents in the dominions of the Porte, but the provisions of those instruments evidently refer to offences committed, or civil controversies arising, *in the Turkish territory*.

It does not appear that the Porte had ever stipulated with any European power for the extradition of criminals, or the seizure of fugitives from justice by their governments, in Turkey, until the year 1774, when the treaty of Rutschuck Kainardgi was negotiated with Russia.

The second article of this treaty provides that "if subjects of the two empires, who have committed any capital crime, or been guilty of disobedience or treason, should attempt to conceal themselves or seek asylum in either of the empires, they shall not be received or kept under any pretext, but immediately delivered, *or, at least, expelled from the States of the power to which they may have retired.*" The article proceeds to except fugitives embracing the religion of the country to which they may have fled, and concludes as follows: "Likewise, in case any subjects of the two empires, whether Christian or Mahomedans, who have committed any offence or crime, for whatever cause, shall pass from one empire to the other, they shall, upon requisition, be immediately delivered up."

By virtue of general clauses in subsequent treaties, Austria, as well as the other Frank governments, claims the benefit of this article, and she attempts to convert the alternative stipulation for extradition *or* expulsion into a grant of the power of seizing on Turkish soil, and by her own ministerial officers, Austrian subjects who have offended against her laws.

The apparent inconsistency between the first and last clauses of this article—the former being in the alternative, the latter absolute—is, perhaps, to be explained by a looseness of translation from the Turkish and Russian originals, in the published French version. But, even taking the phraseology of this version as it stands, there can be little doubt that the first or alternative clause was meant to provide for political offences, the latter for ordinary crimes and misdemeanors. The Porte insists on this construction of the treaty, and contends that it is bound to extradition only in case of this latter class of offences; but that with regard to political offenders, it retains the right of delivering them up or expelling them, at its option. It was upon this ground that Turkey refused the surrender of Kossuth and his companions on the demand of Austria in 1849.

The Porte is doubtless right in its construction of the treaty; but, however this may be, the Turkish Sultan is the undisputed lord of the soil, and, by the general law of nations, has exclusive jurisdiction over

all private persons within his territory. Foreign governments and their officers have no other or greater rights or powers within the Turkish territory than such as have been conceded to them by the Porte; and if they claim exceptional rights and privileges, those rights and privileges must be clearly and indisputably established before third parties can be affected with notice of them.

The extent of the powers granted to Austria is a disputed point; but so long as this is *lispendens*, foreign governments are entitled to disregard disputed claims in derogation of the general principles of international law, and to treat the Porte as still enjoying *de jure*, what it certainly *prima facie* possesses, exclusive jurisdiction over all private strangers commorant within its bounds.

Cases of extradition, even of political offenders, have undoubtedly occurred, and it is said that alleged fugitives from justice have been sometimes seized and sent away by the consulates without special authority from the Porte. But though the Ottoman government may possibly have winked at this irregularity in some few cases, it has always denied the *right*. It is, moreover, the uniform practice to cause the arrest to be made by the consular cavasses, who are always Mussulman subjects of the Porte, commissioned by it as bailiffs, and acting by its authority, though for the time being serving as guards and ministerial officers of the consulate; and it is believed that very few seizures for the purpose of extradition have ever been made by these officers without special authority from their Turkish superiors.

The right of claiming extradition conferred by the treaty of Rutschuck Kainardgi is mutual, and therefore the Turkish legations and consulates have the same powers in this respect over Ottoman subjects in Russia, Austria, England, France, and the United States, that the Frank authorities have over the subjects of their governments in Turkey. The seizure of an Ottoman subject in a foreign territory by brute force, and without legal process, by hired ruffians, upon the mere verbal order of a Turkish consul, and especially after permission to make such seizure had been refused by the local authorities, would never be tolerated for a moment by any Frank government. And there can be no doubt that the arrest and detention of Koszta for participation in the revolution of 1848, was, under the peculiar circumstances of the case, as illegal as would be the seizure of a Greek by a Turkish consul at Vienna, London, or Boston, upon the charge of having treasonably participated in the insurrection which severed Greece from Turkey. Indeed, in any case where there exist treaty stipulations for the extradition of criminals, without special provisions defining the mode in which it shall be effected, the consular authorities might claim the right of seizure and transportation with as much show of justice as in this.

As before noticed, Austria claims the right of seizure not only under the treaty of Rutschuck Kainardgi, but under the provisions of the ancient capitulations. These provisions are extremely vague in their terms, but it has been already observed that they relate solely to causes of action or prosecution arising in the territory of the Porte. It is further to be remarked that they provide, not for the *removal* of the accused, but for his *punishment* by the legation or consulate of his own

government; and it is most evident that their object was to confer upon Franks resident in Turkey the privilege of exemption from the jurisdiction of the native tribunals, not to bestow upon their governments the right of forcibly removing them out of the territory and protection of the Porte.

The arrest and detention of Koszta being illegal, the Turkish governor of Smyrna ought to have demanded and enforced his release. The American consul required him to discharge this duty, but he refused to interfere, and left the American and Austrian authorities to settle the matter between themselves as they pleased. All question of the violation of neutral rights was now at an end. Turkey had both abdicated her sovereign right to determine the question of the legality or illegality of the seizure, and even neglected to insist on the ordinary powers and privileges of a neutral territory. To all intents and purposes, the parties in dispute might, from this moment, consider themselves out of the jurisdiction of any third power, and free to act as if they were upon the high seas, or in a port of an uninhabited island.

The Austrian government had repudiated Koszta, declared him expatriated, and denied him its protection as a subject; its civil and military authorities had arrested him, not by any form of regular process, but by brute force, in a territory where they could, under such circumstances, lawfully exercise no power over him, and where they were consequently, *for this purpose*, not official persons, and the local authorities had denied all redress or interference in the premises. The case, then, is one of illegal and private violence, and Captain Ingraham had the same right to interfere that he would have had if the prisoner had been seized and confined by avowed robbers or other lawless ruffians in a part of the world where no organized government existed.

We come now to the second branch of the inquiry. Had Koszta a right to protection as an American?

His own government had banished, expatriated, and repudiated him, and with the duty of protection had necessarily relinquished the right of control. To Austria he was a stranger, owing her no duties, claiming under or from her no rights. By the established usage which has been recognised in Turkey for centuries, all Franks having no native protection may put themselves under the patronage of *any* Christian nationality represented at the Porte which consents to receive them, and when so received they are treated in all respects as the subjects of the protecting power. This is every day's practice; and for a long period there has not been a legation at Constantinople, or a Frank consulate in Turkey, which has not had foreign non-naturalized Franks under its full protection and jurisdiction. In some cases these protégés have been counted by hundreds and even thousands. Austria herself has numerous protégés, owing her allegiance neither by birth nor naturalization, and the practice is too well established to admit of its legality being questioned. Upon this ground alone, then, Koszta, being an unprotected Frank, might apply to any Frank nationality for protection, and such nationality might in its discretion accept or refuse him. But Koszta has further rights. He had solemnly declared his intention of becoming an American citizen, and by that act had acquired inchoate rights, the extent of which belongs entirely to us, and to no foreign juris-

diction whatever to determine. He had presented himself to the legation at Constantinople and the consulate at Smyrna, been recognised by them as a protégé, and furnished with teskerehs setting forth his American nationality. In these peculiar circumstances, and under the anomalous political relations of Turkey, the American authorities might lawfully allow to Koszta all the privileges which an American citizen can enjoy in that empire; and whatever his mere legal rights as between himself and the American government may have been, it does not lie in the mouth of Austria, which has repudiated all duties, and of course all rights, with respect to him, to question the nature of his relations with us.

What, then, was the duty of Capt. Ingraham? The proposal of the governor of Smyrna to refer the question to his superior at Constantinople was not accompanied with any stipulation that the prisoner should remain at Smyrna to abide the result. It was known that preparations were making to smuggle him on board an Austrian steamer about to sail for Trieste, and there was no doubt that unless the American authorities forthwith interposed, he would be hurried off to meet a certain and ignominious death. Captain Ingraham had no alternative but to submit to this outrage upon the rights of humanity, their violation of the principles of international law, their illegal violence towards one whose rights to American protection had been duly recognised, or to vindicate those rights and the honor of his country by an exercise of the physical force with which his government had intrusted him.

These considerations appear to me to justify the position taken by Mr. Brown, and the conduct of Captain Ingraham, and I trust they will be sustained by the American government in a course of action which has been generally applauded at Constantinople, and which cannot fail to give new force to the hourly increasing respect with which the American government is regarded in the countries of Europe and the East.

Although it has been said, as above noticed, that Koszta was arrested by mistake, there is, nevertheless, much reason to suspect that his seizure was the beginning of a series of arrests, which were intended to embrace all the Hungarian and Italian refugees in the Turkish dominions; and it is believed that the occurrences at Smyrna will have a salutary effect in checking the course of illegal violence and sanguinary persecution to which those unfortunate persons would otherwise have been exposed.

The Porte has made no complaint in regard to the conduct of Capt. Ingraham, the American consul at Smyrna, or the legation; nor has the Austrian internuncio made to this legation any protest or other communication on the subject, since the final demand by Captain Ingraham was known at this capital.

Koszta will, of course, remain for the present in the custody of the French consulate, and I respectfully request instructions from the Department of State as to further steps to be taken in the matter.

Since the above was written, I learn, from a reliable source, that the Porte intends formally to protest against the seizure of Koszta by the Austrian consulate; and though it is not to be supposed that it will ex-

press any approval of the conduct of Captain Ingraham, I have not the slightest reason to believe that it is at all displeased with it.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

Hon. W. L. MARCY,

Secretary of State.

Mr. Marsh to Mr. Marcy.

[Extract.]

[No. 45.]

CONSTANTINOPLE, *July 11, 1853.*

SIR: * * * * *

Kosztá remains in the custody of the French consulate at Smyrna, and I have nothing to add to the statements of my despatch of July 7th, respecting him.

I have the honor to be, sir, most respectfully, your obedient servant,

GEORGE P. MARSH.

Hon. W. L. MARCY,

Secretary of State.

Mr. Marsh to Mr. Marcy.

[Extract.]

[No. 47.]

CONSTANTINOPLE, *July 25, 1853.*

SIR: * * * * *

The affair of Kosztá is still in the same condition as at the date of my last despatch. The Porte has prepared a note for the Austrian internuncio, protesting against the seizure of Kosztá, but it has not yet been delivered, and possibly may be suppressed. In the mean time I have had no correspondence with Mr. de Bruck; but if the Porte makes a satisfactory protest, I shall endeavor to procure the release of the prisoner.

I have the honor to be, sir, respectfully, your obedient servant,

GEORGE P. MARSH.

Hon. W. L. MARCY,

Secretary of State.

Mr. Marsh to Mr. Marcy.

[Extract.]

[No. 48.]

CONSTANTINOPLE, *August 4, 1853.*

SIR: On the 29th of July I had an interview with Mr. de Bruck, the Austrian internuncio, in which the case of Koszta was discussed. Mr. de Bruck insisted, that by virtue of the ancient capitulations, by treaty and by usage, the Austrian government enjoys in the Turkish dominions, to all intents and purposes, the same jurisdiction over its subjects found there as in Austria itself; he denied that Koszta had acquired any rights as an American citizen; regarded the interference of the American authorities in his behalf as illegal, and demanded the delivery of the prisoner to the Austrian consulate.

In the course of the same day I received a note from the internuncio, written on the previous day, a translation of which, with a copy of my reply, I shall forward as soon as they can be prepared.

In the course of the interview, I stated to Mr. de Bruck that I should not consent to the surrender of Koszta, upon any conditions whatever, without the express orders of my government; and I proposed to him to allow the prisoner to embark on board the first American merchantship sailing from Smyrna to the United States, with the understanding that he should not land at any European port, or be furnished by the American legation or consulate with a passport for any place out of the territory of the United States.

At the suggestion of Mr. de Bruck, I repeated this proposal in my reply to his note, and it will be laid before his government by him.

Mr. de Bruck declared that Koszta came to Turkey as a political agent; but the only proof he adduced was the fact that he was known to be in correspondence with persons in Austria, through a mercantile house at Marseilles. I have every reason to believe that this correspondence was of a strictly private character; and as Mr. de Bruck admitted that Koszta was a person of no political importance, I am not without hope that the Austrian government will accept the proposal I made to Mr. de Bruck.

In the mean time the Porte has formally protested against the seizure of Koszta, and I will send a copy of the protest as soon as it can be copied and translated.

I have had several conversations on this subject with the Minister of Foreign Affairs, and with Ali Pacha, governor of Smyrna at the time the affair took place. These distinguished persons are very far from expressing any dissatisfaction with the course pursued by us. They sustain the view the legation has taken of the legal character of the question; and Ali Pacha informs me that a few years since the Austrian government refused to surrender to the Porte Turkish rebels who had fled into Austria, on the very ground now taken by the Porte, namely, that the treaties did not provide for the extradition of political offenders.

The internunciature has attempted to excuse the forcible seizure of Koszta, by asserting that Ali Pacha had neglected to attend to its

repeated demand of his expulsion. This statement the Pacha utterly denies, and affirms that he never heard the name of Koszta until the day of his arrest, when the Austrian consul called to ask the Pacha's consent to that act.

He states, further, that the arrest was actually made an hour and a half *before* the consul's application to him; though in making the application the consul thought proper to conceal that fact.

Mr. Lacour, ambassador of France, having been led to believe that a slight modification of my proposal would lead to its acceptance by the internuncio, communicated this information to me; and I, in accordance with his suggestion, called this morning upon Mr. de Bruck, and stated that I was willing to agree that Koszta should be put on board the first American merchant ship sailing from Smyrna directly for an American port, by the French consulate, or by the Turkish authorities, under a stipulation that if he voluntarily escape from the ship afterwards, the protection of this legation shall be withdrawn from him.

Mr. de Bruck said that upon reflection he had concluded not to make any arrangement for the release of Koszta without previous instructions from Vienna, and I suppose, of course, the matter must remain in its present position some weeks longer.

There are at Smyrna, and elsewhere in Turkey, several refugees who emigrated to the United States under similar circumstances as Koszta, and who have returned, after taking the first step towards naturalization, some without passports, others with passports from American legations, consulates, or other authorities, describing them as American *affiliated* citizens; there are others who received from this legation, in 1849 and 1850, passports not noticing their nationality at all, but merely describing them as persons "emigrating to America," and which were given merely to enable the bearers to proceed to Smyrna or other ports, where passage could be taken for the United States; there is a third and much more numerous class, amounting probably to several hundreds, who came to Turkey in 1849, provided with passports from the American consulate at Rome, describing the bearers as citizens of the United States. Many of these latter passports have been sold or otherwise transferred from hand to hand, and none of those to whom they were issued have any claim to be regarded as possessing any other rights as American citizens than such as this consular declaration of nationality confers upon them.

We are likely to have difficult questions in regard to these persons; and I beg, as I have before done during the administration of the late President, general instructions as to the extent to which they are to be regarded as entitled to the protection of this legation. * * *

Most respectfully, your obedient servant,

GEORGE P. MARSH.

Mr. Marsh to Mr. Marcy.

[No. 50.]

CONSTANTINOPLE, *August 17, 1853.*

SIR: I have the honor to enclose herewith translations and copies of correspondence between the Austrian internuncio and myself, in relation to the case of Martin Koszta, referred to in my despatch (No. 48) of August 4, 1853.

As to the delay complained of by Mr. de Bruck, I have to remark that Mr. Brown had, in the posture of the case, of which he was apprized on the 5th of July, and especially his frequent verbal communications with the Austrian general at Constantinople, who visited him repeatedly in behalf of the internunciature, rendered a formal reply superfluous; and, for my own part, I delayed making any official communication to Mr. de Bruck, in the expectation that the Porte would take some energetic measure, which might render action on our part unnecessary.

The protest, if it may be so called, of the Ottoman government, a copy of which is annexed, forms a part of a long communication on another branch of the same general subject, and is couched in terms much less strong than I had hoped; but the present embarrassed condition of the political relations of the Porte explains, if it does not justify, the tone it employs.

I have prepared a communication to the Ottoman government, claiming its intervention; but have not yet presented it, and hope it may still be unnecessary to appeal to its sovereignty as a means of inducing Austria to consent to the release of the prisoner.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

HON. W. L. MARCY,
Secretary of State, Washington.

[Translation]

BUYUKDERE, *July 28, 1853.*

SIR: By my letters dated June 27 and 30, and July 3, I claimed the intervention of Mr. Brown, then chargé d'affaires of the United States at Constantinople, to put an end to the obstacles which the captain of the American corvette *St. Louis*, stationed at Smyrna, interposed to the detention of Martin Koszta on board the Austrian brig *Hussar*. I did not neglect to sustain this demand by an exposition of facts, from which it results that Koszta had never ceased to be an Austrian subject, and, as such, was subject in Turkey to the jurisdiction of the Austrian authorities; and I observed that the declaration of his "intention of becoming a citizen of the United States," made by Koszta on the 3d of July, 1852, in presence of a notary at New York, a copy of which Mr. Brown communicated to me by his note of June 29, 1853, could not certainly make any change in Koszta's nationality,

so long as the bonds which connect him with Austria have not been legally dissolved.

Mr. Brown having informed me, under date of the 3d of July, that my letter of June 30 had not reached him, and that he could not pronounce explicitly before the reception of that document, I hastened to send him a duplicate the next day.

From that time no communication has reached me on the part of the legation of the United States—the direction of which, sir, is now in your hands. I must accordingly beg you to communicate to me, as soon as possible, your final decision on the question still in dispute.

As you are no doubt apprized, Koszta is now in the custody of the French consulate at Smyrna, in virtue of an arrangement between our respective consulates, until the difficulties relative to the determination of his nationality, and his rights to protection, shall be settled between the Austrian and American missions at Constantinople.

For my part, I can but reiterate the expression of my conviction that Koszta has never ceased to be an Austrian subject; and that, according to the laws in force in Austria and the laws of nations, neither his declaration “of an intention of becoming a citizen of the United States,” nor the document, a copy of which was annexed to Mr. Brown’s last letter, (by which a notary of New York declares that he considers Koszta an affiliated citizen of the United States,) is sufficient to give him American nationality, still less to deprive the imperial authorities of the right of jurisdiction over his person.

I must consequently insist that Koszta be surrendered to the Austrian consulate general at Smyrna, remarking that, in case you cannot adopt my conclusions, he must remain in custody of the French consulate until our respective governments have agreed on the question of his nationality.

Receive, sir, the assurance of my distinguished consideration.

V. DE BRUCK.

To Mr. MARSH,

Minister Resident of the United States of America.

Therapia, July 30, 1853.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency’s note of July 28, (received yesterday,) and to offer the following remarks in reply:

I deem it superfluous now to enter into a minute examination of the question involved in the case of Koszta, both because it has been already discussed at some length by the internunciature and this legation, and because I am prepared to make a proposal, the acceptance of which by the internunciature would terminate the present inconvenient position of the affair, and leave any complaints either party may have to make against the authorities of the other to be examined and disposed of by their respective governments.

At the same time, I deem it my duty to state very succinctly my reasons for declining to comply with your excellency’s demand of the surrender of the prisoner to the Austrian consulate at Smyrna.

I cannot admit your excellency's position that any European power can legally exercise plenary general jurisdiction over its subjects upon Turkish soil; although I am aware that, in derogation of the principles of international law, a qualified jurisdiction has been granted by the Porte, for certain special and limited purposes, to the representatives of the Christian powers in Turkey. Neither the ancient capitulations, nor any modern treaty, confer such powers as are claimed by Austria; and it is notorious that the Ottoman government denies that such rights have ever been granted.

That abuses of the rights really conceded have occasionally been winked at is no doubt true; but the Porte has often protested against them, and it is confidently believed that no legal authority can be shown for the public seizure of a Frank in the Turkish territory by unofficial persons, upon the verbal order of a European consul, and without the assent of the Turkish authorities, or even the presence of a cavass.

The seizure of Koszta, then, was as unlawful in essence as it was barbarous in the circumstances of its execution. His detention had nothing of the character of a legal imprisonment, and the American officers had the same right to interfere which they would have had in any case of private and illegal violence. The peculiar institutions, political relations, and present circumstances of Turkey, imposed upon the official representatives of the American government the duty of protecting, by all the means in their power, every person entitled to any of the rights of an American citizen against all illegal violence, from whatever quarter proceeding.

Koszta was an American protégé. The circumstances under which he went to the United States were equivalent to an emigration under an *auswanderungsschein*. He had declared his intention of becoming an American citizen, not, as your excellency supposes, before a simple notary, but, in due form of law, before a court of record. Visiting Smyrna and Constantinople for merely private and temporary purposes, he required, under the laws of Turkey, passports and other protection from some Christian nationality. It will not be pretended that he could have obtained such protection from the Austrian authorities. He had acquired inchoate rights as an American citizen, the extent of which it belongs to the American authorities exclusively to determine. Both in virtue of these rights and under the general practice by which, from time immemorial, the legations representing Christian powers in Turkey have, in their discretion, extended their protection to any Franks, otherwise unprotected, who asked the benefit of it, the American legation might properly, upon Koszta's application, recognise him as a protégé.

For this purpose he applied, first, to the consulate at Smyrna, and afterwards to this legation, stating the purpose of his visit to Turkey and his intention of soon returning to the United States, and exhibiting the evidence of his American nationality.

Both the legation and the consulate recognised the validity of his claims, and gave him *teskerch*, describing him as a citizen or protégé of the United States; and he had returned to Smyrna for the purpose of re-embarking for America, when his unlawful seizure by order of the Austrian consulate at that city commenced the series of unfortu-

nate events which almost inevitably resulted from that much-to-be-regretted, and it is hoped unauthorized, act of lawless violence.

Believing, then, that the seizure and detention of Koszta were wholly illegal and unwarrantable, and that he is entitled to American protection, I cannot consent to his surrender to the Austrian consulate; and I hope your excellency will accede to the proposal I now make for relieving the consulate general of France, as well as the internunciature and this legation, from further responsibility and embarrassment in relation to this subject.

There is at present no American vessel-of-war in the Levant about to return to the United States; and I cannot, therefore, offer to commit Koszta to the charge of a public officer for conveyance to America; but at this season of the year there are frequent opportunities of communication between Smyrna and American ports by American merchant vessels. These vessels usually proceed directly to their destination without touching at any intermediate port, and by one of them Koszta might readily be conveyed at once to the United States.

I propose, then, that he be permitted to avail himself of the first opportunity which shall offer of embarking on board an American ship, direct for an American port, with the understanding that he shall not, unless compelled by shipwreck or other inevitable accident, land at any Turkish or European port, or be furnished by the American legation or consulate in Turkey with a passport for any place out of the territory of the United States.

I pray your excellency to accept the assurance of my distinguished consideration.

GEORGE P. MARSH.

His Excellency BARON DE BRUCK.

[Translation.]

BUYUKDERE, August 4, 1853.

SIR: In acknowledging the receipt of the note you were pleased to address me, under date of July 30, in relation to the case of Martin Koszta, I regret to inform you, sir, that I can neither accept your proposal nor recognise the soundness of the principles on which it is founded. I must, consequently, refer the matter to the decision of our respective governments.

Receive, sir, the assurance of my distinguished consideration.

V. DE BRUCK.

Mr. MARSH,

Minister Resident of the United States of America.

Translation of protest of the Porte against the seizure of Koszta.

The Hungarian refugee, Martin Koszta, being only a political refugee, his highness (Ali Pacha) gave the strongest promises to have him

arrested and sent out of the Ottoman empire; and it is hoped that your excellency will acknowledge that the conduct of the Austrian consulate, which, without giving any notice whatever of the same to the local authority of Smyrna, had him seized and conveyed on board an Austrian vessel-of-war, was certainly not a very regular proceeding. Consequently, after his excellency Chékib Effendi, who has been sent by the command of his imperial Majesty to investigate this matter, arrives at Smyrna, he will ascertain the truth of the proceeding, and the Sublime Porte will be compelled to demand of the justice of the imperial Austrian government, reparation for the conduct of the said consul general.

Mr. Marsh to Mr. Marcy.

[No. 54.]

CONSTANTINOPLE, *September 13, 1853.*

SIR: Ali Pacha, late grand vizier of the Ottoman empire, has drawn my attention to the treaty of Belgrade between Turkey and Austria, some of the provisions of which were relied upon by the latter power in the negotiations of 1849-'50, relative to the extradition of the Hungarian refugees.

It will be seen that those provisions, (articles 18 and 19 of the treaty,) of which I enclose a copy, lend no countenance to the claim of the right of seizure set up by the Austrian government; and I am informed that the Porte does not consider the words translated, “ ” as embracing refugees accused of offences of a proper *political* character, but interprets them as referring to persons guilty of lawless acts of defiance of their own government, committed for merely private ends.

The case of the refugees of 1849 seems to have been nearly identical with that of Michael Gaski provided for in the 19th section, and in conformity with the principle adopted in that case, Romble and his companions were assigned a residence “remote from the frontier provinces.”

I have the honor to be, most respectfully, your obedient servant,
 GEORGE P. MARSH.

Hon. W. L. MARCY,
Secretary of State.

[Translation.]

Copy of the 18th and 19th articles of the treaty of Belgrade between the Ottoman Porte and the Emperor of Austria.

ART. 18. It shall be prohibited henceforth to give asylum and shelter to evil persons, to rebellious subjects, and to malcontents; but each of the contracting parties shall be obliged to punish these kind of people, as well as all thieves and brigands, even though they should be the

subjects of the other party, if it surprises them within the territory of its jurisdiction. That, if such people cannot be seized, they shall be pointed out to the captains and to the governors of the places where they lie concealed, and orders shall be given to them to punish the same; that if said officers neglect to punish these kind of malefactors, they shall incur the indignation of their emperor; they shall be deprived of their employment, or they shall be punished for the guilty. And in order that there may be greater security against the insolence of these wicked persons, it shall not be permitted to either of the contracting parties to maintain what are called *haydones*, a species of robbers, who, not being in the pay of any one, exist by plunder. These kind of people, as well as all those who shall give them food, shall be punished, and although they may promise to amend, they shall not be trusted; they shall be removed from the borders and transferred to more distant places.

ART. 19. And lest the safety of the frontier and the tranquillity of the people might be subjected to some attacks, the places which the Ottoman Porte shall designate for the residence of *Michel Gaski*, and other Hungarians, who have withdrawn themselves from their allegiance to the Emperor of the Romans, (*sic* in original,) and who, during the war, have sought an asylum with the Turks, shall be removed from the frontier provinces. It shall, however, be permitted to their wives to join them and to remain with them.

Mr. Marsh to Mr. Marcy.

[No. 55.]

CONSTANTINOPLE, *September 14, 1853.*

SIR: I have the honor to report to you that I have just had an interview with the Austrian interauncio, and that he informed me that his government had authorized him to accept my proposal for the release of Koszta, and his return to the United States, upon the condition stated in my despatch (No. 48) of August 4, 1853.

M. de Bruck promised to make me a written communication on the subject to-morrow, but I shall not probably receive it in time to accompany this despatch with a copy of it.

I learn that there are now in Smyrna several American vessels about to sail for ports in the United States, and I trust, that in arranging the details with Mr. de Bruck, no difficulty will arise of a nature to prevent the embarkation of Koszta by one of them.

I suppose Koszta is possessed of some funds; but if he proves to be destitute, I hope the instructions I gave Mr. Offley to pay his passage, and draw on me for the amount, on account of the contingent fund of this legation, will not be disapproved by the government.

I deem it due to Mr. de Bruck, to say that he has throughout manifested a conciliatory disposition in this affair, and that I have no doubt he advised his government to accept the arrangement proposed by me.

I have the honor to be your obedient servant,

GEORGE P. MARSH.

Hon. W. L. MARCY,
Secretary of State.

Mr. Brown to Mr. Marcy.

SMYRNA, *September 23, 1853.*

SIR: I have the honor to report to you that I came to this place on the 21st instant, under instructions from the minister resident, to superintend the execution of the convention made by him with the internonce of Austria, at Constantinople, for the departure of Mr. Martin Koszta for the United States, in an American merchant vessel, leaving directly for one of their ports.

You are aware that the Austrian consul general at this place consented to the disembarkation of Mr. Koszta from the Austrian brig-of-war "Hussar," on the condition stipulated with the United States consul, that he should be confined in the prison of the French consulate at the expense of the Austrian consul, and that, consequently, the captain of the "Hussar" had him conveyed on shore in irons, for the purpose of thus being placed in the French prison. The humanity of the French consul preserved him against a convention of so rigorous a character, and he was therefore only placed in the hospital of his consulate, freed from fetters or other dishonorable restraint.

I believe I need not state the conditions of the convention for his final release and departure for the United States, recently made between the minister resident and the Austrian internonce, as the same will doubtlessly have been already fully communicated to you by the former. The charge confided to me has not been sought for by me, yet it is to me a very agreeable duty. I supposed on my arrival that it would have been carried into effect without any delay, and that I should have returned to the capital in the course of a few days. In this expectation, however, I have been disappointed, and I would now respectfully apprise the department of the cause of the non-execution of the convention made by my superior, as follows:

In the agreement stipulated between the United States and the Austrian consul, the French consul consented not to release Mr. Koszta except on the *joint demand* of the two former consuls. From motives of which I am unable to perceive either the wisdom or utility, and which I leave him to justify to the department, the consul of the United States has refused to give *his* signature to the demand for Mr. Koszta's release, and thus opposed the execution of the arrangement made by the minister for his relief. I have communicated the circumstance to the minister, and await his further instructions.

The French consul is desirous of being relieved, as early as practicable, from the charge of Mr. Koszta, and he, as well as the public here and in Constantinople, will feel gratified when he is actually on board of an American vessel sailing direct to the United States. His case has, and still excites, no ordinary interest here, and his freedom will be learned by every one with warm commendations in favor of the government which has saved his life.

I have the honor to be, sir, with great respect, your obedient servant,

JOHN P. BROWN.

HON. WILLIAM L. MARCY,
Secretary of State of the United States.

Mr. Marsh to Mr. Marcy.

CONSTANTINOPLE, *October 3, 1853.*

SIR: I regret to state that the arrangement I had made with the Austrian internuncio, for the release of Martin Koszta and his return to the United States, has been defeated by the refusal of Mr. Offley, American consul at Smyrna, to consent to his release, and of Koszta to accept it, upon the terms agreed upon.

The terms proposed by me have been already communicated to you, and I annex hereto a copy of Mr. de Bruck's letter of acceptance of those terms, marked A.

You will observe that Mr. de Bruck states that he is authorized to "regulate the arrangements relative to the prisoner's release according to the offer made by me," and that, in a subsequent part of his note, he adds: "The imperial government, however, reserves to itself to proceed against this person, according to its rights, in case he should be found in the Ottoman territory."

I did not consider this reservation as a part of the agreement, or as having any other force than simply as a notice that, by consenting to the release of the *person*, Austria did not intend to be considered as surrendering the *principle*, or as waiving her *legal rights*, whatever those might prove to be, in case Koszta again came within what she claimed as her jurisdiction; nor, indeed, could I expect that, in a correspondence *with this legation*, anything beyond the simple release of the individual would be conceded.

I therefore replied to Mr. de Bruck, that the conditions stipulated would be adhered to by the American authorities, and I annex hereto a copy of my reply, marked B.

On the 19th of September I addressed Mr. Offley a letter of instructions, a copy of which is annexed and marked C; and I instructed Mr. John P. Brown, secretary and interpreter of this legation, to proceed to Smyrna, in order that, in case any difficulty should occur in carrying out the arrangements for Koszta's embarkation, a person upon whose discretion and fidelity I could rely might be at hand to aid in behalf of the legation. I annex a copy of my instructions to Mr. Brown, marked D, and of a note addressed by me to Mr. de Bruck, dated September 19, 1853, and marked E. On the 25th of December I received from Mr. Offley a letter, a copy of which is annexed, and marked F. To this letter I replied by a note, a copy of which is annexed, and marked G; and on the 29th of September I received another letter from Mr. Offley, copies of which and its enclosure are also annexed, and marked respectively H and I.

In pursuance of my instructions, Mr. Brown repaired to Smyrna, and did his utmost to persuade Mr. Offley, as well as Koszta, to consent to the terms proposed by me and accepted by Mr. de Bruck, but in vain; upon information of which, I obtained from the French ambassador an order to the consul general of France, at Smyrna, to make all necessary arrangements directly with Mr. Brown. Mr. Brown accordingly commenced a negotiation with the French consul general for that purpose; but Koszta, acting, as I have reason to believe, solely upon the advice of Mr. Offley, peremptorily refused to embark upon the conditions

agreed upon; and Mr. Brown, after a stay of near two weeks at Smyrna, returned to this city, leaving Koszta in the hands of the French consul general.

During Mr. Brown's stay at Smyrna, three American vessels sailed from that port directly for the United States, two of which would have taken Koszta as a passenger; and I had authorized Mr. Brown to pay his passage on account of the contingent fund of the legation, Mr. Offley having represented him as destitute of funds.

You will recollect, sir, that in the outset of this affair, Mr. Offley came to the conclusion that Koszta was not entitled to the protection of the consulate, and that it was only upon the correspondence with Mr. Brown, then acting as *chargé d'affaires*, that Captain Ingraham felt himself authorized to interfere in behalf of the prisoner. Mr. Offley ought not, therefore, to have stipulated that his release from the custody of the French consulate general should depend on the consent of the American *consulate*. I should have disapproved of this at the time as the assumption of an authority properly belonging to the *legation*; but the agreement between the consulates having been executed before it was known to the legation, it was too late to make the objection.

But however this may be, it is evident that the whole affair came within the proper authority and jurisdiction of the legation; and the consul, whatever his opinion of the expediency of the terms might be, was bound by the instructions of the minister.

The conditions agreed upon were certainly the best that could be obtained by any negotiations *here*, whatever might have been the result of a diplomatic correspondence between the two *governments*; and knowing, as I did, that it was doubtful whether the French government would allow its consulate at Smyrna to continue to protect the prisoner until the matter could be arranged between the governments of the United States and of Austria, I should have thought myself justified in accepting terms even less favorable to Koszta than those agreed upon between Mr. de Bruck and myself.

These terms had been communicated to both Mr. Offley and to Koszta; both had expressed their satisfaction with them; and the only objection now made is to the reservation, which neither can nor was intended to give to Austria any rights over Koszta which she would not have had without it.

I refrain from any observations on Mr. Offley's conduct or motives in raising unfounded difficulties, and refusing to obey the instructions of the legation; but I cannot forbear to remark, that it is of much consequence to the disposition of the legation with the Porte, and with the representatives of the Christian powers at Constantinople, that it be sustained in the exercise of its lawful authority and prerogatives. I submit, too, that, under the circumstances of the case, I was justified in making the best arrangement I could with the Austrian internunciate without waiting for instructions, which might arrive too late to save the prisoner, and that the Austrian government has a right to expect that the agreement thus entered into shall be faithfully observed.

Your instructions of the 26th of August were not received until the 26th of September, when it was too late to avail myself of them, and it would now be to no purpose to propose to Mr. de Bruck, who is

acting under special instructions, any modifications of the terms agreed upon between him and myself.

The French consul general complains of the inconvenience to which the custody of Koszta subjects him; and the French ambassador has repeatedly expressed a strong desire that the consulate general be relieved from the responsibilities and embarrassments in which it is placed by the present posture of the affair. The consul general has declared that he would protect him no longer, and I can undertake to form no opinion as to the consequences in case Koszta is discharged from custody by him.

The information asked by your unofficial letter of the 26th of August will be furnished as soon as it can be collated, which will be, I hope, in time for the next French post; and I take this occasion to acknowledge the receipt of your despatch, and to add, that upon its arrival I delivered it to Mr. Brown, in order that he might prepare a reply to Mr. Offley's complaints against him. This he omitted to do for the time, because he had, on the — of May, forwarded you a full report on the subject by the hands of Mr. E. Lamb, a merchant of Boston, who was then returning to the United States. We have very recently learned that Mr. Lamb has not been heard of since the 12th of June, when he left Paris, and the report probably never reached the department. Mr. Brown will immediately prepare a copy of it, with any additional explanations that may seem required, and it will be transmitted to you without delay.

In addition to the communications referred to in the first part of this despatch, I annex, for the fuller information of the department, a copy of a note from Mr. de Bruck to myself, dated September 16, 1853, marked J; a copy of a letter from Mr. Offley, dated October 1, 1853, marked K; and copies of two communications from Mr. Brown, marked respectively L and M.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

HON. WILLIAM L. MARCY,
Secretary of State.

A.

[Translation.]

BUYUKDERE, *September 14, 1853.*

MR. MINISTER RESIDENT: In my letter of the 4th of last August, which I had the honor to address you in reply to your communication of the 30th of July relative to the Koszta affair, I informed you, Monsieur le Ministre, that I had been under the necessity of asking for instructions from the imperial cabinet before I could explain myself on the subject of the propositions enclosed in the communications aforesaid.

In the meanwhile direct negotiations have been set on foot between the two governments concerning the occurrences that have taken place

since the arrest of that individual at Smyrna, and which, as you are aware, have not yet been brought to a close. Nevertheless, as the imperial government does not desire to confound the individual with the cause, it has just authorized me come to an understanding with you, Monsieur le Ministre, in regard to the release and transportation of Martin Koszta to America, and to settle the arrangement relating to the same, according to the offer you had previously made me.

Consequently, Koszta will take passage at Smyrna, under the superintendence of our respective consular authorities, on board a vessel of war of the United States, or, in default of which, in one of the American merchant vessels that frequently visit said port at this season of the year, at the moment such vessel is on the point of sailing on her direct voyage to America, without touching at any of the intermediate ports, except in the case of great damage sustained, or some other marine accident; Koszta to be provided with an American passport, expressly prohibiting him from changing his route, or to leave the vessel before she reaches America. The imperial government, however, reserves itself to proceed against that individual, according to its rights, the moment he is again surprised on Ottoman territory. As this arrangement coincides with your propositions, I expect from your civility, Monsieur le Ministre, that you will have the kindness to send proper instructions to Smyrna, and communicate the same to me, in order that I may give a similar order to the consul general at that port.

Accept, Monsieur le Ministre, the assurance of my distinguished consideration.

DE BRUCK

B.

Therapia, *September 15, 1853.*

SIR: I have the honor to acknowledge the reception of your excellency's note of yesterday, announcing the acceptance of the proposal made by me for the release of Martin Koszta and his return to the United States, and to reply that the conditions recited in your excellency's note will be faithfully observed by the authorities of the United States.

I was mistaken in supposing that the French steamer would sail for Smyrna on Friday. To-day, being the 15th, is her day of departure. And as there will not be time to prepare the necessary instructions for our respective consulates this morning, I purpose to send a special messenger to Smyrna by the Austrian steamer of Monday next, and hope it may suit your excellency's convenience to prepare such instructions as are deemed necessary for the Austrian consulate in the mean time.

In conclusion, I take pleasure in saying that I believe my government will find in the readiness with which his imperial Majesty the Emperor of Austria has acceded to the proposed arrangements, and, I beg leave to add, in the conciliatory course pursued by your excellency in this unfortunate affair, a gratifying proof of the friendly spirit and

the moderation of the Austrian government and its authorities; and I trust the points of difference yet remaining between the two governments will be arranged in a manner entirely compatible with the dignity and honor of both.

I pray your excellency to accept the assurance of my distinguished consideration.

GEORGE P. MARSH.

His Excellency the BARON DE BRUCK,
Internuncio of his Majesty the Emperor of Austria.

C.

CONSTANTINOPLE, *September 19, 1853.*

SIR: You have already advised that M. Baron de Bruck had accepted my proposal for the release of Koszta, and the following extract from the internuncio's letter specifies the terms of the agreement:

“Koszta prendra passage à Smyrna sous les surveillance de nos autorités consulaires respectives à bord d'un bâtiment de guerre des Etats Unis, où, à défaut, sur un navire marchand Americain, qui visitent dans la saison actuelle frequemment le dit port, au moment où celui mettra son voile, pour se rendre directement en Amerique, sans toucher aucun port intermédiaire, excepté le cas d'une grave avarie où d'un autre accident de mer. Koszta devra être muni d'un passeport Americain, que lui defend expressément de changer de route ou de quitter le bâtiment avant que celui-ci ne soit arrivé en Amerique.

“Le gouvernement imperial se reserve cependant de proceder contre cet individu conformément à ses droits, dès qu'il serait surpris une autre fois sur le territoire Ottoman.”

You will recollect that in my despatch of August 4, I stated it to be one of the conditions of my proposal that if Koszta voluntarily landed in Turkey, American protection should be withdrawn from him.

You will now make the necessary arrangements for Koszta's embarkation and passage to the United States, in conformity with the terms of the foregoing arrangement; and you will take from Koszta a writing testifying his full and free agreement to the terms above stipulated. I send herewith a passport, to be duly vized and delivered to him at a proper time, and I renew the expression of my earnest desire, that, neither at nor before the time of his embarkation, any public demonstration or meeting of any sort in relation to this matter be allowed to take place, if it is in your power to prevent it.

In case of any doubt or difficulty in arranging the details with the Turkish authorities, the French consulate, or Mr. Weichbechen, you will consult Mr. Brown, who will deliver you this, and you will act in the whole matter under his general direction.

I remain, &c.,

GEORGE P. MARSH.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

D.

CONSTANTINOPLE, *September 19, 1853.*

SIR: You are already advised that the Austrian internuncio has signified to me his acceptance of my proposal for the release of Martin Koszta, and his return to the United States. I deem it highly expedient that the arrangements for this purpose be made under the supervision of an officer of this legation, and I request, accordingly, that you will proceed to Smyrna and give Mr. Offley such aid and directions as he may need in carrying out the general instructions I have given him.

My letter to Mr. Offley, which I communicate to you herewith, contains the terms agreed upon by Mr. de Bruck and myself, and I leave the arrangements for executing them entirely to your discretion.

Your expenses, of which you will keep an account, will be paid out of the contingent fund of the legation.

I am, sir, &c.,

GEORGE P. MARSH.

J. P. BROWN, Esq.,

Secretary interpreter, U. S. legation, Constantinople.

E.

THERAPIA, *September 19, 1853.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 16th instant, and to say, in reply, that I have communicated to the American consul at Smyrna the terms agreed upon between your excellency and myself for the return of Martin Koszta to the United States, and given him general instructions to make the necessary arrangements in conformity with the terms proposed by me and accepted by the internunciature.

I have entered into no detail in my instructions further than to say, that it is my particular request that no meeting or public demonstration in occasion of this affair be allowed to take place; and I have referred the consul, in case of any difficulty in arranging the details with the Austrian consulate, or with that of France, or the Turkish authorities, (which, however, I have no reason to apprehend,) to Mr. Brown, secretary interpreter of this legation, who proceeds to Smyrna by the Austrian steamer of to-day, and whom I have authorized to act in my behalf in the matter.

The passport furnished Koszta is in the usual form, and filled up as follows:

“Martin Koszta se rendrait aux Etats Unis d’Amerique, à bord du navire Americain le qui part incessamment de Smyrne directement pour le port de . Et il est expressément defendu au dit Martin Koszta de changer de route ou de quitter le bâtiment avant que celui-ci ne soit arrivé en Amerique excepté le cas de naufrage ou autre accident en mer.”

I pray your excellency, &c.,

G. P. MARSH.

H. E. BARON DE BRUCK,

Internuncio of H. I. M., the Emperor of Austria.

F.

UNITED STATES CONSULATE, SMYRNA,
September 23, 1853.

SIR: I have had the honor to receive from Mr. J. P. Brown your despatch of the 19th instant, wherein you transmit an extract from the interuncio's letter specifying the terms of the agreement entered into by you and Mr. de Bruck, in regard to the release of Mr. Koszta.

Allow me, sir, to make some remarks relative to the above agreement, which have induced me to inform Mr. J. P. Brown that I abstain from giving my assent for Koszta's removal from the French hospital. I particularly notice the following paragraph of the agreement:

“Le gouvernement imperial se reserve cependant de procéder contre cet individu conformément à ses droits dès qu'il serait surpris une autre fois sur le territoire Ottoman.”

This reserve made by the Austrian government to proceed against Mr. Koszta, in *conformity with its rights*, whenever he may again be found on the Ottoman territory, confirms the pretension of Austria, so loudly proclaimed by her to all Europe, that our conduct was an arbitrary one, and consequently that our claims on Koszta were ill-founded. To accede to this agreement would be, therefore, a disavowal of our conduct, by our own free will, and before our government has pronounced thereon, at least to our knowledge; Mr. Brown having told me that the legation had not received, up to the 17th instant, any news from the State Department relative to this question.

As I had the honor of remarking after Koszta's rescue, if we had the right of acting as we did, we ought to uphold the principle on which we acted, unless we should receive contrary orders from the Department of State. As the signer of the convention, I do not feel authorized to give my consent to the agreement, when it is against my own conviction—when I firmly believe that the paragraph in this agreement so closely touches the feelings and character of our country. Under similar circumstances, I would rather prefer being disapproved for an excess of zeal than submit the character of my country to a condition that, in my opinion and conviction, does not reflect to its credit. Further, as a point of right, our conduct has not been merely supported by public opinion in the United States, by the Hon. Judge Douglas, but also by every *independent* newspaper in Europe. Moreover, after the despatch I have received from the State Department in answer to my report on Koszta's case, it seems to me requisite to postpone any further action until we hear again from our government. The despatch is dated the 13th of August, as follows: “Your interesting despatch under date of July 5, marked ‘duplicate,’ has been received, and the important questions to which it gives rise are now under grave consideration.” Whereby I naturally infer that the Hon. Secretary of State will, most probably, and on an early opportunity, give his instructions and views on the matter.

I requested from Mr. Brown to be informed, if he knew, how far you were bound by the agreement passed between yourself and Mr. de Bruck, and he seemed not to know, as he gave me evasive answers.

but it is apparently conditional, as it depends on Koszta's acceptance of the conditions mentioned in your above despatch. Therefore the dignity of the legation cannot suffer by the non-execution of the same, or by a postponement thereof. Further, having read to Koszta the terms above referred to, he replied that if he were to sign such a writing with the paragraph to which I have already referred, it would not be with his "full and free agreement;" but if, he added, the agreement is approved by the United States government, he would then unhesitatingly do so.

I shall also take the liberty to add, that as the above agreement has been sent by Mr. de Bruck to his government for its approval, it seems to me but rational that, under the circumstances, it should also be submitted to our own for the same purpose. I shall send, by the first mail, to the Hon. Secretary of State, copies of our correspondence on the subject, and will await his instructions thereto.

I have the honor to be, your obedient servant,

E. S. OFFLEY.

P. S.—The Austrian consul general has just called on me to have an understanding as to the means of embarking Koszta. I informed him that I deem it my duty to lay some remarks before the legation referring to the agreement, and that, consequently, we will on a future day arrange the details aforementioned.

G.

CONSTANTINOPLE, *September 26, 1853.*

SIR: Your letter of September 25d did not reach me till late last evening, after the departure of the Austrian post for Smyrna.

It is with extreme regret that I perceive you have allowed unfounded scruples to embarrass a question which is attended with much more difficulty and delicacy than you appear to be aware of. In communicating to you my proposal to Mr. de Bruck, on the 30th of July and 4th of August, I stated it as one of the conditions, that if Koszta voluntarily left the ship, our protection should be withdrawn from him. The ground on which I did this was my conviction that, if he were at liberty, the Turkish government would expel him from the country; or, if he persisted in remaining, would allow the Austrian authorities to seize him. I am not advised that Koszta made any objection to these terms; but, on the contrary, your letters give me reason to suppose that he was satisfied with them.

You totally misapprehended the legal effect of the passage cited from Mr. de Bruck's letter. The "rights" of Austria are her *legal* rights, and these are neither enlarged nor restricted by this reservation. If she had a legal right to seize him in the manner he was seized, we are in the wrong in resisting the seizure, and should be equally so in resisting it if attempted hereafter. His return to Smyrna would give Austria no *new* rights, nor was this reservation inserted with a view to claim

any such. The reservation is no part of the *agreement* between Mr. de Bruck and myself, and it merely serves to indicate that, by consenting to the release of the *person*, Austria does not intend to be considered as waiving the *principle* for which, though desired by us, she has contended, and still contends, namely—the absolute legal jurisdiction over all those whom she claims as her subjects in the Turkish empire. It is not to be expected that, in corresponding with the *American authorities abroad*, the Austrian officials will yield any question of principle. All such are reserved for discussion between the two governments, and I can ask no modification of the conditions proposed and deliberately agreed upon. On the other hand, there is no assent, on our part, to the principle insisted on by Austria; no admission that Austria can lawfully exercise the rights she claims in case of Koszta's return. My proposal before, in substance, communicated to you, and which I understand to be satisfactory to Koszta himself, contained no such condition. Mr. de Bruck, in accepting my proposal, says he is authorized “à régler l'arrangement y relatif d'après l'offre que vous m'avez fait.”

I cannot follow your argument further, and it is enough to say that you have entirely misconstrued the object and legal meaning of the reservation under discussion.

I have received full instructions from the government of the United States on the subject, and, upon due consideration, I have to say that no other terms of release will be proposed by me than those already agreed upon, and that Koszta must accept them, if he expects further aid and countenance from this legation. The responsibility of declining them, and of all the consequences of that step, must rest upon himself; and, unless I receive immediate notice that he accedes to them, I shall inform the Austrian internuncio, and the French embassy, that he refuses to avail himself of the favorable arrangement made in his behalf.

With respect to the written assent of Koszta, it should be remembered that it is a mere matter between himself and the legation, and is not intended to be communicated to the internunciature or government of Austria.

There are, as I have already hinted, many difficulties and embarrassments attending the question; and I hope Koszta will not have the folly to aggravate them, by a refusal to accede to terms which are certainly the best that Austria, not to mention other governments more or less directly concerned in the question, will consent to.

I now repeat my instructions, that in case of further difficulty, you are to be guided by the direction of Mr. Brown, if still at Smyrna.

I am, sir, &c.,

GEORGE P. MARSH.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

H.

UNITED STATES CONSULATE, SMYRNA,

September 26, 1853.

SIR: I had the honor of addressing you on the 23d instant, in answer to your despatch dated the 19th of the same month, relative to Mr. Koszta, and I now beg to enclose herewith a copy of a note which I have since received from him, dated the 24th instant, wherein he gives his reasons for refusing to sign the writing you requested of him, testifying his consent to the terms of the agreement passed between yourself and Mr. de Bruck, and wherein he requests me to forward the same (the agreement) to the United States government for its approval, which I shall do by to-morrow's French mail.

I have the honor to be, sir, your most obedient servant,

E. S. OFFLEY.

I.

[Translation.]

SMYRNA, *September 24, 1853.*

SIR: You have had the kindness to inform me of the arrangement made in my behalf by his excellency Mr. Marsh with the Austrian minister at Constantinople, the last clause of which charges you to obtain from me written evidence of my full and entire consent to all the terms of that arrangement.

By this convention, the right which Austria pretends to have to cause political refugees on Turkish territory to be pursued and seized is openly avowed. Austria never had such right in Turkey; and even lately, the public opinion of the English and French governments has disputed this pretended right.

I am obliged to give a reversat* (to pledge myself) never to return to Turkey; and the moment I am again found upon Ottoman territory, the Austrian government reserves itself to proceed against my person according to its rights. Thus, by this arrangement, his excellency again gives a right to Austria which she does not possess at present, and guaranties rights which he disputes himself at this day, which will never be recognised by Turkey, and which will always be disputed by England and France.

When I left for America, no one forbade me to return to the country whose government has tendered its hospitality to all those who in 1849, on account of their misfortunes, have asked its protection. And shall this now be forbidden me? Shall I be prohibited from returning to Turkey as an American citizen? Thus again this convention seeks to accomplish more yet: it forbids an American citizen to return to Turkey, and gives a right to Austria to cause an American citizen to be seized. At such a price I can accept neither life nor liberty. Never

* "Donnez un reversat,"—unintelligible.—*Translator.*

will I give my consent to an arrangement which strikes a blow at the sovereignty of an American citizen.

These are the reasons why I cannot give you to-day my written consent; and I beg that you will have the kindness to send this convention to America, and if the American government approves of it, I, who am so grateful, so much indebted to the government and the people of America, I shall deem it my duty to sign it without any further hesitation.

Be pleased, in conclusion, to accept my compliments, and I am, &c.,
MARTIN KOSZTA.

Mr. E. S. OFFLEY,
United States Consul at Smyrna.

J.

[Translation.]

BUYUKDERE, *September 16, 1853.*

MONSIEUR LE MINISTRE RESIDENT: I have had the honor to receive the note you were pleased to address me yesterday, and I hasten to testify to you the pleasure I have experienced, on account of the obliging manner with which you have appreciated the decision of the imperial cabinet, which I communicated to you in my letter of the 14th of this month.

Nothing remains for us, therefore, than to provide the most proper means for carrying out the arrangement upon which we have agreed, concerning the transportation of Martin Koszta to America in a manner suited to the dignity of our two governments, and to the consideration they mutually owe each other.

I shall confide the execution of this task to the consul general of Austria at Smyrna, and my instructions in relation to it will be forwarded to him on Monday next by the Austrian steamer, without the aid of a special messenger, and they will be confined to recommending him to select, in concert with the person deputed by you to superintend the embarkation of Martin Koszta, the moment and the place the most proper to avoid giving any fresh publicity to an affair which has already gained a degree of notoriety that cannot be sufficiently lamented.

Relying upon the delicacy of your sentiments, I have no doubt but that you will hasten to give your co-operation to that effect, and I beg, Monsieur le Ministre, that you will accept the renewed assurance of my distinguished consideration.

DE BRUCK.

K.

UNITED STATES CONSULATE, SMYRNA,
October 1, 1853.

SIR: I had the honor to receive, on the 30th ultimo, your despatch under date of September 26, and I now beg to enclose a copy of a despatch that I have just received from the honorable Secretary of State, dated the 31st August, on the subject of Koszta, which comes in support of the remarks contained in my letter of the 23d instant, relative to the terms of the agreement between yourself and Baron de Bruck for Koszta's removal from the French hospital.

I regret that I did not receive by to-day's boat an acknowledgment of my despatch of the 26th instant, wherein I transmitted you a copy of a letter from Mr. Koszta, in which he states his reasons for refusing to give his consent to the terms of the above agreement, and wherein he requests me to submit it to the United States government for its approbation, which I have done, especially as I hoped you would have consented to this delay, which, in my opinion, he has the right to expect.

I shall take the liberty to remark, that after the perusal of the above despatch from the Secretary of State, the legation cannot refuse to Koszta its further aid and countenance, and that the threats of Mr. J. P. Brown to Mr. Koszta, "that the protection of the United States shall be withdrawn from him, and that the French consul will kick him out of the French hospital, should he continue to refuse to leave for the United States on the terms mentioned in the agreement," could not be put into practice without an infraction on the rights of men.

Mr. Koszta begs me to inform you that he continues to keep good his engagement towards you, for leaving Smyrna on the terms mentioned in your letter of the 4th of August last, which did not contain the proviso of the Austrian government, relative to the reserve it makes of its right to proceed against him whenever he is again found on the Ottoman territory, which I trust you will be able to obtain.

I have the honor to be, sir, your obedient servant,

E. S. OFFLEY.

L.

SMYRNA, *September, 23, 1853.*

SIR: In compliance with your instructions, I have come down to this place, and the day before yesterday (the 21st) having learned that an American bark, the "Mimosa," would probably leave that same day, I proceeded, at an early hour after my arrival, to call upon the United States consul, and deliver him your letter of instructions for him, with which you charged me on the subject of the departure of M. Koszta for the United States.

Mr. Offley, during my interview with him, objected to the execution of your instructions until he could hear from the United States. He disapproved of a part of the letter of the Austrian minister to you, (embraced in yours to the consul,) in which it is stated that in case Mr.

Kosztka "should return to this country, the Austrian government would proceed against him according to its rights." I told him that I differed from him in his view of this reservation, and urged him to carry out your instructions without any unnecessary delay. He informed me that the "Minosa" could not take him, and that he had already proposed it to the captain and been refused. During his interview he showed me a despatch from the Department of State, dated the 30th of August, acknowledging the receipt of the duplicate of his "interesting communication" of the 5th of July, and adding that its contents were under "grave consideration." He spoke to me of another despatch received by him of an earlier date, reproaching him for not having addressed the department on the subject of the affair at Smyrna. He also said that he had received, in private, information from Washington, stating that the affair had received the President's approval. Beyond this, I did not learn from him that he had received any further information or instructions from Washington respecting the wishes of the President. He appeared, however, to expect soon to hear from the government himself. Mr. Offley told me that the "Race Horse" would sail on the 24th for Boston, and I hoped he would decide to take the proper measures for carrying your convention into execution. He asked me what I thought he should do to execute your instructions, and I told him that he should address a letter to the Austrian consul expressive of his readiness to effect the arrangement entered into between yourself and the Austrian minister, and on receiving a proper reply, to engage a passage for Koszta in the "Race Horse."

I explained to Mr. Offley that I was not aware that in your arrangement with the Austrian minister, you had admitted any rights over Koszta, nor that the minister had admitted your possession of any over him; that these points would be elucidated in the discussion which, doubtless, was now being made between the American and Austrian governments; that if the latter proves unable to make good its "rights" over him, which, of course, was our expectation, it would possess none hereafter over him; so that the paragraph in question would be well, should Mr. Koszta at any future period ever return to Turkey.

Mr. Offley did not communicate with me again on the subject until this morning, when he called to see me at the hotel where I am staying. He brought with him a letter dated yesterday, and I was much surprised and pained to learn from him that he would not consent to the removal of Koszta from the French hospital agreeable to your instructions. I again urged him to be governed by your views, but without success, he saying that he felt the honor of his country was in *his* hands, and he would not consent.

As, by the agreement entered into between Mr. Offley and the Austrian consul general of Smyrna, Koszta could not be released from the French consul's charge except on the *joint* demand of both these consuls, I do not deem it proper to take any steps myself for carrying out your agreement with the internuncio, until I can hear further from you. I do not know that the French consul could, under the circumstances, deviate from his engagement, without an order to that effect from his own ambassador. I had thought of returning at once to Constantinople, but have concluded it best to wait here your further orders. The

“Race Horse” will not sail, I believe, before next Wednesday, and I may in the mean time hear from you.

The Austrian consul general—so Mr. Offley has informed me—sent twice to him yesterday, to offer to carry out the agreement made by you. Mr. Offley has also been to see Koszta, and tells me that he will not give the paper desired by you, expressive of his consent and approval of your convention, and of his willingness to proceed to the United States; I cannot, however, say that he has actually refused to give one.

I feel that the objections made by Mr. Offley, if persisted in, will greatly embarrass you with the Austrian minister. To be thus thwarted by him, in a matter of so delicate a nature, will place the legation in an unpleasant light. I do not see any utility to grow out of it; for supposing that the two governments discuss the question of Koszta’s nationality, and their respective (supposed) rights over him for a year to come, and this without either convincing the other that it has no “rights” over Koszta, it seems to me that it would, in the mean time, be much better for him and the French consul, as well as for public opinion, that he should thus have been given up to us and put on board an American vessel, with an American passport. I can scarcely believe the President will send a ship-of-war expressly to take him by force from the French consul’s charge. The arrangement which Mr. Offley himself made with the Austrian consul general here, when Koszta was put on shore from the Austrian brig-of-war, struck us as sustaining no right whatever on the American side. It sent him to the French *prison*, where he was to be confined at the expense of the Austrian consul general. And, moreover, I cannot forget that Mr. Offley, when he originally wrote to me from this place about Koszta, wholly abandoned him as one not having any rights to the protection of our government, and that it was only on *my* own decision and instructions that he acted upon *my* demand for his release. I may add, also, that on *my* instructions Commander Ingraham effected Koszta’s freedom from the Austrian brig. Now, however, it is the legation (according to Mr. Offley) that has not a proper sense of the honor of our government and country, but both exist wholly with him.

Mr. Offley did not come to see me yesterday, and I believe, from his own statement, he called to see Koszta. I have no reason whatever to believe that he used any argument to induce Koszta to be governed by your convention in his behalf. His own pretension leads him to wish to do something in the matter which would place the legation in an unfavorable light. He does not hesitate to ask the legation for instructions whenever a responsibility must be taken, but shows very little consideration for it when it expects his co-operation or conformance to its views. He appears to recognise in it no superior authority to his own; and will not, I apprehend, be ever prevailed upon to carry out the convention made by you.

I have the honor to enclose his reply to me, and remain, &c.,

JOHN P. BROWN.

Hon. G. P. MARSH,
Constantinople.

M.

CONSTANTINOPLE, *October 3, 1853.*

SIR: I have the honor to report to you that finding it impossible to execute or carry into force the convention made between you and the internuncio, for the immediate release of Koszta from the French consul's charge, and his departure for the United States in an American vessel, I have returned here this morning from Smyrna.

Referring you to my previous report on this subject of the 23d ultimo, and to the opposition which I found at Smyrna on the part of the United States consul, Mr. Offley, to your convention, and the positive refusal of Koszta to avail himself of the facility offered him for leaving the French hospital in which he is still confined, locked up, and under the charge of a guard to prevent his escape, I would here only add that I have returned to Pera so as to be able to give you full explanations on the same.

On learning from Mr. Offley that he personally objected to your convention, and would not give his signature for the release of Koszta from the hospital, I visited the French consul and explained to him that the delay was not due to me, nor to the legation. The French consul expressed himself very desirous of being relieved as early as practicable from the charge of Koszta, and said that he would allow him to depart at once, on my signature, should he be so instructed by his ambassador. He remarked that, though he comprehended Mr. Offley's objections to the convention, yet that he could not consider him right in assuming a position of opposition to a matter wholly of a diplomatic nature, which did not concern him, and for which he could not be held responsible.

After receiving your instructions of the 26th ultimo, in which you informed me that, should Mr. Offley still refuse his signature for Koszta's release from the charge of the French consul, my own could substitute it, and that instructions to this effect had been sent to the French and Austrian consuls at Smyrna by their respective embassies, I enclosed your letter to Mr. Offley in one from myself, begging him to let me know his intentions. Not showing in his reply any willingness to give his signature for his release, I addressed a letter at once to the Austrian consul general, offering to proceed without further delay to execute your convention. In place of allowing me to call upon him, the Austrian consul came immediately to see me at the hotel, and we agreed upon a joint demand on the French consul for Koszta, after which he would be escorted on board the first American vessel departing for the United States by a guard from either consulate.

I next went to see the French consul and communicated the arrangement to him. I called also to see Koszta in the hospital, to inform him of what we proposed doing. He appeared much pleased to see me, but informed me that he objected to the clause in which the Austrian government reserved its "rights" over him in case of his return to Turkey hereafter. Seeing that he had received an erroneous impression of the clause in question, I explained to him its true meaning; that it was simply an assertion that whilst the Austrian government acceded to your proposal for his immediate release, on condition that he

would proceed to the United States, it did not make any admission thereby that it had no right to him ; that the rights of both governments were the subject of discussion between the two governments, and that whilst this discussion was being carried on (and it might be protracted for many months) there was no reason why he should continue to incommode the French consul with detaining him. I added, also, that no one could foresee the result of this discussion, which might end less favorably to him than the conditions of the convention already made by you. I need not add more than that Koszta ended by the assertion that he would neither believe my explanations nor accept of the convention. In place of giving me a paper of acceptance of your agreement in his behalf, I suggested to him to please himself, and address you a protest against the "reservation of rights" made by Austria ; but this he also refused, on the ground that as he had made no such protest heretofore, he should not do so now. Finding my efforts unavailing, I gave him until noon of the following day for reflection ; I told him that the French consul would not permit him to continue in his hospital, and, should he refuse to go on board the American vessel, would most probably require him to leave it immediately ; that you had received full instructions in his case, and would make no modifications of your convention ; but that, in case he refused to avail himself of it, refuse him any further aid or countenance.

I subsequently sent a friend of Koszta to see and urge him to cease his opposition to your convention ; and this person visited him twice on my part—at first without success, but on the second interview he returned and informed me that Koszta agreed to go to the United States, but wished me to give him the previous statements in writing, which I offered to do.

I now called again on the French consul, and after stating what had occurred, expressed my desire to make an arrangement with him by which Koszta could be put on board the vessel without my remaining for that purpose any longer in Smyrna. The consul begged me, however, not to leave until he was gone ; for, he said, he apprehended further trouble on the part of the American consul. He told me that he believed Mr. Offley had heretofore not been very popular among Americans in Smyrna, and would evidently endeavor to make a character for himself out of the present affair. During our interview, Mr. Offley came in and showed me a despatch from the department of the 31st of August, approving of his conduct (Captain Ingraham's) and the course pursued by the legation, in which Koszta is spoken of as an "American citizen." Having learned that Koszta was to be released on my signature, he became greatly excited and exchanged some very angry remarks with the consul.

After this I called to see Koszta to give him the written statement which he had desired from me, and learned with surprise and regret that he would not leave except on compulsion, which he said he had been informed, by his friend, I told him the French consul was disposed to use for the purpose of putting him on board the vessel. I again used every argument and assurance in my power to induce him to change

this determination; but finding them useless, and feeling the inutility of my further stay in Smyrna, I have returned.

I have the honor, &c.,

JOHN P. BROWN.

HON. G. P. MARSH.

Mr. Marsh to Mr. Marcy.

[Extract.]

[No. 59.]

CONSTANTINOPLE, *October 15, 1853.*

SIR: In consequence of an illness which has confined me to my room for several days, and of the absence of Ali Pacha, I am not able to furnish full information on the points of inquiry suggested in Koszta's case by this mail, but hope to forward it by the next post.

I learn, however, from Mr. Brown, who had an interview with Ali Pacha a few days since, that the Pacha states that the Austrian government demanded the *internement* of Koszta and certain other individuals, and the expulsion from Turkey of the other refugees, and that it was in compliance with this demand that Koszta was sent to England.

From a commentary on the Austrian civil code published in Italy, and apparently a work of authority, it would seem that the bare act of leaving the Austrian territory without the consent of the government, and without the intention of returning, involves the law of all the rights of citizenship. I have not been able to procure the text of the code, but it has been promised me, and I hope soon to be able to obtain it.

* * * * *

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH

HON. W. L. MARCY,

Secretary of State.

Mr. Marsh to Mr. Marcy.

[No. 60.]

CONSTANTINOPLE, *October 20, 1853.*

SIR: I enclose herewith copies of a recent correspondence between myself and Mr. Offley, United States consul in Smyrna, in reference to the case of Martin Koszta, who has sailed from Smyrna for the United States.

I am willing to leave my own conduct in this affair to the judgment of my government, without further observation; nor have I any personal resentments to gratify towards Mr. Offley, much as I disapprove his untimely interference with the arrangements which had been concluded to relieve all parties from the embarrassing position in which they were placed. At the same time I cannot forbear to remark, that it is impossible for this legation to maintain a position of respectability or usefulness, if ignorant and presumptuous subordinate officials are

permitted to overrule its decisions, and defy its authority, for the sake of giving themselves a factitious importance, or of gratifying a private malice against the head or any of the officers of the legation.

I am aware that the jurisdiction of American ministers over the consuls of their nation is, in general, less extensive than that of the European legations over their consulates; but, in the present instance, there can be no doubt that the conducting of the whole affair was a matter within the proper competence of the legation, and I trust that the contumelious treatment of its officers and its authority by Mr. Otley will be visited with such reprehension as it deserves.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

Hon. W. L. MARCY,
Secretary of State.

CONSTANTINOPLE, *October 5, 1853.*

SIR: Yours of the 26th ultimo, with its enclosure, reached me only on the 1st of October, but the delay was of no importance, as it contained nothing calculated to change my views of the merits of the question, or of my own duty with respect to the matter in issue. As the head of the legation, and as a professional lawyer, I cannot consent to be governed by the opinions of Mr. Koszta on questions of the legal effect of written instructions, or of municipal or international law, and he must abide by the decision of the legation, or suffer the consequences.

You will remember that you had decided that Koszta was not entitled to protection, and that it was only upon correspondence with the then acting *chargé d'affaires* that Captain Ingraham interfered in his behalf. You are also aware that the Department of State has committed the charge of the matter not to you, but to the legation. The Secretary's letter to *you* refers only to the fact, and contains no directions in respect to the future course to be pursued towards Koszta; whereas, as I have already informed you, I have been fully instructed by the Secretary of State on the whole subject. Under these circumstances, it seems to me so incredible that you or Koszta should have deliberately refused the respect which the opinions and the obedience to the authority of the legation demand, both upon general principles and because the government has specially committed the subject to its charge, that I have preferred to ascribe your conduct and that of Koszta, in the affair, rather to an irritation growing out of your personal relations with Mr. Brown, than to a settled purpose of attempting to overrule the decision and the instructions of the only authority responsible in the matter.

Presuming, then, that upon reflection you will be disposed to take a different course of action, I now repeat that the reservation in Mr. de Bruck's letter is no part of the agreement between him and myself; that no assent to the principle insisted on by Austria has been given by me, and that the reservation has no legal effect whatever on the rights of the Austrian government, or of Koszta.

I shall propose to Mr. de Bruck no modification of the terms already agreed upon; but I do not wish to be compelled to resort to an exercise of the authority of the legation in a way which might be attended with unpleasant consequences to you or to Koszta, and I therefore repeat the offer of sending him to America, at the expense of the legation, on the terms of my letters of the 4th of August, and of later date; and this is the last proposal this legation will make to him, or in his behalf. So far, however, as his written consent is concerned, I have already said to you that it was not intended to be communicated to the Austrian authorities, nor was it stipulated with Mr. de Bruck that any such paper should be given. It is proper he should give such assent, but I attach no importance to it; and if he supposes there is any danger in giving it, I am willing to waive it.

I now expect that he will embark by the next American vessel, and I trust that you will not assume the very serious responsibility of throwing any obstacles in the way of the execution of the agreement entered into for his liberation. I shall expect an early reply, and am,

G. P. MARSH.

EDWARD OFFLEY, Esq.,
Consul of the United States, Smyrna.

UNITED STATES CONSULATE, SMYRNA,

October 17, 1853.

SIR: Referring to the despatches I had the honor of addressing you on the 14th instant, I now beg to inform you that the embarkation of Mr. Martin Koszta took place on that day (14th) at about 5 o'clock p. m.

I did all in my power to avoid the arrangements made here between Mr. John P. Brown and the Austrian consul for Koszta's embarkation, as they would have tended to show that he had been embarked as a prisoner, it having been agreed upon between them that Koszta was to have been conducted on board by two guards, one of each consulate. This I positively refused to the Austrian consul, who then agreed to send his first interpreter, and the embarkation took place in the following manner:

Captain Watson, the master of the Sultana, was on my right, and Koszta on my left; then followed the officers of this consulate, the French consul, Mr. Pichen, a number of Koszta's friends, and the Austrian interpreter. We were preceded by my cavass and those of the French consul. On our arrival at the wharf of the French hospital, a boat of the barque Sultana, with American colors, was in attendance, in which Koszta, Captain Watson, and myself, went on board. On leaving the vessel, Mr. Koszta handed me a letter, a copy of which I beg to enclose. Early on the morning of the 15th the barque Sultana sailed for Boston.

I have the honor to enclose a receipt from Captain Watson for one hundred Spanish dollars, the amount of Koszta's passage-money, according to your instructions. I have also taken upon myself to pay four Turkish gold pieces of 100 piasters each, which I gave to the cavasses or guards who attended on Koszta at the hospital, according to the cus-

tom of this place, of which I hope you will approve. I will be obliged to you if you will remit me the above amounts at your early convenience, either in cash per steamer, or in an order from your bankers to their agents here.

I remain, sir, your obedient servant,

E. S. OFFLEY.

HON. G. P. MARSH,

United States Minister Resident, Constantinople.

[Translation.]

SMYRNA, *October 14, 1853.*

MONSIEUR LE CONSUL: As you have informed me that the minister resident at Constantinople had assured you that the reservation did not concern, nor form part of, the agreement entered into between himself and the internuncio of Austria, and that he had not given his consent to this fatal reservation, which seems to me to protect my interests, my dignity, as well as the honor of the government that has been pleased to defend me in that case, I will embark for the United States, in order to avoid, above all, any further embarrassment to the legation and to the consulate.

But in order that it may be well proved, that by this act I never intended to acquiesce in a doubt, the effect of which would be to destroy the liberty of the individual, I make my present solemn declaration. Being free like all citizens, I intend to keep and to preserve the right of going and of coming wherever my business demands, seeing that the right of circulation is the first exercise of freedom, and this without ceasing to enjoy the protection of the noble flag under the ægis of which I have placed myself.

I beg, Monsieur le Consul, that you will bear witness to my declaration, in order that no one may attribute any other reason to my departure.

I have the honor to remain, with the liveliest gratitude, Monsieur le Consul, your humble servant,

MARTIN KOSZTA.

MR. E. S. OFFLEY,

Consul of the United States at Smyrna.

CONSTANTINOPLE, *October 20, 1853.*

SIR: I have received your letter of the 17th October, 1853, and have requested Messrs. Ede & Co., of this city, to forward you, through their correspondent at Smyrna, one hundred Spanish dollars, advanced by you to pay the passage of Martin Koszta to America.

As to the gratuity to the cavasses, whether proper or not, it was not a strictly necessary expenditure, and for that reason I cannot allow it as chargeable to the contingent fund of this legation; but it is possible that the government may deem it a fit item to be formed in your consular accounts.

With respect to the communication from Mr. Martin Koszta, of which you have enclosed me a copy, I have only to say, that I regret that that individual should throughout have shown himself so unworthy the interest that has been excited, and the efforts that have been made in his behalf; and still more that his folly, impertinence, and obstinacy, should have been encouraged, if not prompted by the Austrian citizens, who ought rather to have endeavored to inspire him with sentiments of decent respect and gratitude towards the authority which assumed the heavy responsibility of interfering to protect him after he had been abandoned to his fate by the American consulate at Smyrna.

The arrangements made between Mr. Brown and Mr. Weekbecker for Koszta's embarkation was altogether proper, and your refusal to carry them into effect, as well as your general course of action in the whole affair, will be duly reported to the American government, which will, I doubt not, take such notice of your conduct as it merits.

I am, sir, &c., your obedient servant,

GEORGE P. MARSH.

E. S. OFFLEY, Esq.,

United States Consul, Smyrna.

Mr. Marsh to Mr. Marcy.

[No. 62.]

CONSTANTINOPLE, November 5, 1853.

SIR: I have the honor to enclose herewith a report from Mr. John P. Brown, of the result of his inquiries at the Porte in respect to the circumstances under which Martin Koszta was expelled from Turkey.

The facts stated by Mr. Brown, and those communicated by me in former despatches, contain all the information I have yet been able to obtain in definite form on the subject.

I think it doubtful whether any *written* demand was ever made for the expulsion of the refugees from the Turkish territory, (though that supposition is by no means improbable,) but the fact that such a demand was *orally* made is so notorious here that no person would presume to dispute it at Constantinople.

Negotiations with the Porte are always, in a great measure, oral; and it is only in regard to the conclusion of conventions or treaties, or to matters requiring to be referred for examination to particular bureaus, that written communications are usually made.

While this question was pending I was in very frequent personal communication with Ali Pacha, then Minister of Foreign Affairs, and well remember that the demand of the expulsion of those persons by Austria was more than once mentioned between us. I must admit, that it was then generally understood at Constantinople that the refugees so expelled were not to return to Turkey, though I do not know that any written or other formal engagement to that effect was exacted of them. The expulsion was accepted by Austria as a substitute for extradition, and I have no doubt that it was understood by all parties as intended to be perpetual, or that the Porte would have felt itself at all times bound, according to the spirit of the engagement, to re-expel

any of the refugees who should return to the Turkish dominions after having been sent out of them by the government.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

HON. W. L. MARCY,
Secretary of State.

PERA, *October 25, 1853.*

SIR: I have the honor to report to you, that, agreeable to your instructions, I have made inquiries on the subject of the expulsion from the Turkish empire of Mr. Martin Koszta and the other political refugees who were sent, in 1851, in one of the Sultan's steamers of war to England, whence many of them proceeded to the United States.

His excellency Ali Pacha, now not in office, and who was Minister of Foreign Affairs during the period of the Hungarian revolution, and the difficulties growing out of the refuge which the Hungarians, Poles, and Italians found in the Ottoman dominions, informed me a few days since, that after Kossuth, Bathyain, and other Hungarian chiefs, were internated at Kutahia, the Ottoman government, "at the desire and with the knowledge of the Austrian government," expelled Koszta and many others from this country, by sending them, as asserted, to England. Many others who remained at Shumla after the removal of the chiefs to Kutahia were allowed freely to come to this capital, and it is not known that the Austrian government made any further demand about them. The present first dragoman of the Porte, his excellency Nouel Deu Bey, has made a similar statement to me; *i. e.*, that Koszta, and many others of the refugees then at Kutahia, were expelled from this country at the demand of Austria, or, to use his own language, "Eloigné de la Turquie par le desir et avec la connoissance de la legation Autrichienne."

I have been unable to procure a copy of the demands made at this time by the Austrian legation, though the dragoman of the Porte believes that it possibly may be contained in some of the official communications made at the time by the Austrian legation.

I yesterday had a conversation with his excellency Rechib Pacha, now Minister of Foreign Affairs, and who, at the period referred to, was grand vizier. He could not remember whether the persons alluded to were expelled from this country or not at the demand of Austria. He gave me full permission to make inquiries at the bureau of foreign affairs, and that of the grand referendary of the Porte, (Amidgi,) for documentary evidence of the circumstances, but I found the superior members of the bureau so much occupied with the important question of the present period, that I could not induce them to have the voluminous correspondence examined.

I may add that it is a matter of public notoriety here, that the refugees in question were sent out of Turkey at the demand of the Austrian legation. The Austrian consul general, Michauwish, on the occasion of the affair of Koszta, stated to me, (what I believe to be erroneous,) that when they were expelled from Turkey, they made an engagement

never to return to it again. This statement, made as an argument against the legality of Koszta's return, (and therefore of the legality of his arrest by the Austrian consul general of Smyrna,) goes to show that this expulsion was intended by Austria as an eternal banishment and an expatriation forever, from what she considers as her jurisdiction over all Austrian subjects in the Ottoman empire. She has, consequently, herself severed the bonds which existed between her and the refugees, especially in Koszta's case.

I have the honor to be, sir, with much respect, your obedient servant,

JOHN P. BROWN.

HON. G. P. MARSH, *&c.*, *Therapia.*

Mr. Marsh to Mr. Marcy.

[No. 65.]

CONSTANTINOPLE, *December* 14, 1853.

SIR: I have the honor to acknowledge the receipt of your despatch No. 31, of September 27, 1853, and to report that I have fulfilled your instructions.

As I have explained in former despatches, business with the Porte is in the main transacted orally, and it is not usual to make written communications to the Ottoman government, except in matters of technical negotiation, or where a reference to some bureau is likely to be required.

For this reason I did not address a note to the department of foreign affairs, but took a convenient opportunity to communicate verbally the contents of your letter to Rechib Pacha, now at the head of that department.

The Pacha received the communication respectfully, but made no reply. I think myself authorized, however, from previous conversations with the Minister of Foreign Affairs and other eminent personages, to say that the Ottoman government does not feel aggrieved by the course pursued by Mr. Brown and Captain Ingraham; and I do not believe the Porte will be induced, by reasons of state, to express a dissatisfaction which it does not feel.

I have the honor to be, sir, your obedient servant,

GEORGE P. MARSH.

HON. WILLIAM L. MARCY,

Secretary of State.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate, the correspondence between the United States consul at Smyrna and the American legation at Constantinople, and between said consul and this government, in relation to Martin Koszta.

APRIL 6, 1854.—Ordered to lie on the table, and be printed.

To the Senate of the United States :

I transmit to the Senate a report of the Secretary of State, with accompanying documents, in compliance with their resolution of the 14th ultimo.

FRANKLIN PIERCE.

WASHINGTON, *April 5, 1854.*

DEPARTMENT OF STATE,
Washington, April 5, 1854.

The Secretary of State, to whom has been referred the resolution of the Senate of the 14th ultimo, requesting the President "to communicate to the Senate, if not in his judgment incompatible with the public interest, copies of the correspondence between the American consul at Smyrna and the American legation at Constantinople, and also between said consul and this government, on the subject of the seizure of Martin Koszta by the Austrian authorities," has the honor to lay before the President a copy of the documents called for by the resolution, which have not before been communicated, and specified in the accompanying list.

Respectfully submitted:

W. L. MARCY.

TO THE PRESIDENT OF THE UNITED STATES.

List of documents accompanying the report of the Secretary of State of the 5th of April, 1854.

Mr. Offley to Mr. Marcy, July 5, 1853.

Same to same, (enclosure,) July 16, 1853.

Same to same, (extract,) No. 42, August 5, 1853.

Mr. Mann to Mr. Offley, August 6, 1853.

Mr. Marcy to same, August 13, 1853.

Same to same, August 31, 1853.

Mr. Offley to Mr. Marcy, No. 40, (enclosures,) September 17, 1853.

Same to same, No. 46, (enclosure, September 27, 1853.

Same to same, No. 47, (enclosure,) October 7, 1853.

Same to same, No. 48, (enclosures,) October 7, 1853.

Same to same, No. 49, (enclosure,) October 7, 1853.

Same to same, No. 50, (enclosure,) October 17, 1853.

Mr. Offley to Mr. Marcy.

UNITED STATES CONSULATE, SMYRNA,

July 5, 1853.

SIR: I have the honor of laying before you the following occurrence, which has lately taken place in this city:

Late in the evening of the 22d of June last, I was informed that a Hungarian refugee, with an American passport, had been forcibly arrested by a band of armed hirelings, who had been employed for this purpose by the Austrian consul of Smyrna, and they took him on board of the "Hussar," an Austrian brig-of-war lying in this port.

I immediately applied to the governor of this city, informing him of the occurrence, stating that if the refugee who had been arrested was really the holder of an American passport, I claimed him from the Turkish authorities. Some hours after, at about midnight, a person called on me and handed me a document which he stated he had taken from the trunk of the person that had been arrested. This document is a copy of a declaration made in the court of common pleas for the city and county of New York, on the 31st day of July, 1852, by Martin Koszta, an Austrian subject, wherein he declares, on oath, that it is his intention to become a citizen of the United States. Martin Koszta is one of the Hungarian refugees who were kept in "Kutahia," with Kossuth.

In February last he arrived here from Boston, and shortly after his arrival called at this consulate to show me the declaration aforementioned, stating that he intended to remain here for one or two months, and wished to know if I could, in virtue of said declaration, give him the protection of this consulate, as a "citizen of the United States," during his stay here. I told him that as he had not fulfilled the requirements of the law of naturalization, I could not consider him as an American citizen, but that I would grant him my unofficial influence in

case he might have any difficulties with the authorities, and advised him to leave this country as soon as possible, as it would be imprudent for him to stay here without the protection of some consulate.

On the 23d, the morning after his arrest, the United States corvette the "St. Louis" came in sight, and on her arrival I went on board and related the circumstances of the case to Commander D. N. Ingraham, who had already been informed of the arrest by a deputation of refugees, who had gone on board for that purpose, and who had told him that Koszta was a citizen of the United States, and that they claimed the protection of the American flag in his behalf. Under these circumstances, we considered ourselves bound to go on board the brig and see Koszta, and ask him on what grounds his friends claimed for him American protection. On our arrival, we asked the officer of the watch if the captain were on board, who replied that he had gone ashore to see the consul. We then informed the officer that we had come to see the man who had been seized the day previous, and who was confined on board the brig. He replied that no such person was there. We then went to the Austrian consul and requested him to allow us to interrogate Koszta in regard to his nationality, who answered that as he had given him up to the commander of the brig, he could not interfere in the matter, and that we ought to see the commander of the brig, where Koszta had been sent after his arrest. We then told him that we had just come from on board of the brig, and that the officer of the watch had told us that the commander was at the consulate, and that no such person had been sent on board of their vessel. This contradictory statement led us to think that an understanding had taken place between the consul and commander of the brig, in order that we might not be allowed to see Koszta. However, we firmly insisted on seeing him, and after many objections the Austrian consul agreed to send for the commander of the brig, and asked him if he were willing to allow us to go on board and see Koszta, to which the commander acceded, and we went on board with him and the consul. We found Koszta in chains, guarded by two men, and he appeared confused by the ill treatment of the previous day. We interrogated him on what grounds his friends claimed for him American protection, and if he had an American passport; he replied that he had not any, and that he had nothing but the declaration already mentioned, which he had shown me on his arrival in this city, upon which I left the brig with Commander Ingraham, without our having expressed any opinion on the matter.

On the 24th I addressed a letter to the United States legation at Constantinople, reporting the illegal act committed by the Austrian consul, in order that it might take such steps as it should deem proper for the release of said Koszta.

On the evening of the 25th a letter was sent on board the "St. Louis," informing Commander Ingraham that Koszta was to be sent next morning, at daylight, on board the Austrian steamer that was to leave that day for Trieste, begging his interference in order that this might be hindered. On receipt of this letter, Commander Ingraham addressed a note to the commander of the brig, acquainting him of the foregoing, and that as he expected to hear from the United States min-

ister at Constantinople in regard to Koszta's case, he earnestly protested against Koszta being sent away from this port before then. The commander of the brig informed Commander Ingraham, in reply, that he was altogether dependent on the Austrian consul respecting Koszta. On the 29th, at daybreak, the St. Louis got under way, and anchored ahead of the Austrian brig. On the same day I received a letter from the legation, under date 27th June, in answer to mine of the 24th, requesting me to continue my officious aid and intercession in behalf of M. Koszta, informing me that the legation had applied to the Austrian minister for his immediate release. On receipt of this letter, I went on board the St. Louis and communicated its contents to Commander Ingraham. During my interview with him as to the means to be adopted in behalf of Koszta, one of the officers of the corvette entered the cabin and told the commander that the Austrians were loading their guns. Commander Ingraham then gave orders to load the guns of the St. Louis. Commander Ingraham and I decided that I should go to the Austrian consul and endeavor to effect the release of Koszta, or that he should at least be kept here until we should hear further from the legation of the result of its letter to the Austrian minister. I therefore called on the Austrian consul, and my efforts for his release having proved unavailing, I then requested that he should be kept here until further instructions from Constantinople. He at first told me that he could not comply with my wishes, having received orders to send Koszta by the steamer that was to leave on that day for Trieste. Under these circumstances, I suggested the propriety of his keeping Koszta here at least for eight days, but he refused to grant my desire, and it was only after much opposition on his part that I was enabled to obtain a promise that he should not be sent away before Saturday, the 2d instant.

The steamer that came in on the 2d instant, from Constantinople, brought me a letter from the legation, under date of the 30th ultimo, which was handed me by one of its officers, who was sent here by the legation for that purpose, wherein Mr. J. P. Brown, chargé d'affaires, intimates that Koszta might be released on the grounds that he had renounced all allegiance to Austria, and taken an oath of allegiance to the United States, and that Commander Ingraham and I should have another interview with Koszta; "and on any remark from him, calling for your protection, take him." On receipt of this letter, I immediately went on board of the St. Louis to inform Commander Ingraham of its contents, and to deliver a letter that Mr. Brown had enclosed to the commander's address, under date 28th ultimo, requesting him to allow me to peruse it, wherein Mr. Brown says: "If I thought you would be governed by my instructions, they would be to demand him (Koszta) in the most formal and positive language of the Austrian commander, in my name, as representative of the United States;" and adds, "in case of a refusal to deliver him, founded on the pleas that he had renounced all allegiance to Austria, and that, having taken the oath of allegiance to the United States, he has a claim upon our protection, *I would take him out of the vessel.*" After a short consultation with Commander Ingraham, we agreed that he should go on board, and see if Koszta called

for American protection. On his return, he informed me that when on board the brig he had demanded Koszta's release, and had given the Austrian commander three hours' delay for effecting it—(till 11 o'clock a. m.)

As I considered this delay not sufficient to take the necessary steps under the circumstances, I suggested to Commander Ingraham the propriety of extending it till 4 p. m., trusting that I might be enabled to come to some satisfactory understanding with the Austrian consul, so as to avoid the effusion of blood, and all the other consequences that might have ensued from an attempt to obtain Koszta's release by force. Commander Ingraham consented to my suggestions, and wrote a letter to the commander of the Austrian brig, demanding Koszta's release by 4 o'clock p. m. I took a copy of Commander Ingraham's letter and went to the Austrian consul, with whom I used all my efforts, so that Commander Ingraham's demand should be complied with; but after a very long debate, the Austrian consul positively refused to release Koszta. I then explained to him fully the consequences that would no doubt result from his refusal, upon which he proposed that Koszta should be kept here on board of the brig "for a week, a month, or even a year," until the question should be settled by the United States legation and the Austrian embassy at Constantinople. I took advantage of this opening to enter into negotiations, and after many difficulties I succeeded in making a convention with the Austrian consul, subject to Commander Ingraham's approval, whereby it is stipulated that Koszta is to be delivered to the French consul of this place, who is not to give him up until a collective demand is made by us to that effect.

Commander Ingraham having approved of the conditions therein stipulated, Martin Koszta was landed on the afternoon of the same day.

The excitement caused in town, among the European population and the natives, was very great. He was landed amidst the acclamations of an immense concourse of people, who went to see the man who had been rescued from Austrian barbarity, and cheers of "Vive l'Independence des Etats Unis d'Amerique, and her gallant commander who had saved the intended victim from the blood-thirsty Austrians," were long repeated by all present.

The governor of this place, "Ali Pacha," sent his dragoman to express the satisfaction he had felt on Koszta's release.

No measures of interference were taken by the local authorities in this matter, and the other authorities felt highly pleased at the happy result.

The firmness with which Commander Ingraham acted, under the circumstances, has greatly elevated the character of our country and its navy, especially as the Austrian force here was greatly superior to ours, as, besides the Austrian brig, there was a schooner of war and three Lloyd steamers, two of which were mounted with four guns each, and the third with eight, that had been sent on board from the brig the same morning.

I have the honor to enclose copies of the documents referring to this matter, and to transmit a despatch to the address of your excellency, with its enclosures, sent me by the United States legation at Constan-

tinople, which Mr. Brown authorized me to peruse and forward by first mail.

With great respect and consideration, I remain, sir, your most obedient servant,

E. S. OFFLEY.

HON. WILLIAM L. MARCY,
Secretary of State, Washington.

List of the documents enclosed.

No. 1. Martin Koszta's declaration to become a citizen of the United States.

No. 2. Commander Ingraham's letter, 28th June, to the commander of the Austrian brig.

No. 3. Mr. Brown's letter to Commander Ingraham, 28th June.

No. 4. Commander Ingraham's letter to the commander of the Austrian brig, 2d July.

No. 5. Answer of the commander of the Austrian brig to the latter.

No. 6. Convention between the Austrian and the United States consuls.

Mr. Offley to Mr. Marcy.

UNITED STATES CONSULATE, SMYRNA,
July 16, 1853.

SIR: I have the honor to enclose herewith a duplicate of my despatch under date of the 5th present month, and of the documents therein mentioned, relative to Martin Koszta, a Hungarian refugee, who had been illegally arrested by the orders of the Austrian consul of this place, and sent on board of a brig-of-war of that nation, to be conducted to Trieste, as well as of his having been given up to the French consul, in virtue of a convention passed between the Austrian consul and myself, until the matter of Koszta's nationality and rights should be settled by the United States legation and the Austrian embassy at Constantinople.

Koszta continues to be detained in the French military hospital of this place, where every attention is paid to him.

I will take the liberty of quoting a paragraph of a letter of Mr. J. P. Brown, our late chargé d'affaires at Constantinople, which he addressed me under date 16th instant: "The Porte is much gratified with our success in the matter. It blames the Austrians, and says that it could not support itself at the present moment as it ought, and could have done at another time. The whole affair has done our national character much credit, and I am much gratified with the manner in which you took up and sustained the position I saw proper to assume."

Trusting, sir, that you will approve of my conduct under the circumstances, I have the honor to be, sir, very respectfully, your obedient servant,

E. S. OFFLEY.

HON. WILLIAM L. MARCY,
Secretary of State, Washington.

Mr. Offley to Mr. Marcy.

[Extract.]

[No. 42.] UNITED STATES CONSULATE, SMYRNA,
August 5, 1853.

* * * * *

On the 16th July last, I had the honor of transmitting to you duplicate of my despatch dated the 5th of same month, and of the documents therein mentioned, relative to Martin Koszta, a Hungarian refugee, who had been forcibly arrested by order of the Austrian consulate at this place, and taken on board of the "Hussar," an Austrian brig-of-war, and afterwards, in accordance to an agreement passed between this and the Austrian consulate, was transferred to the French naval hospital, until his nationality and rights should be settled by the United States legation and the Austrian embassy at Constantinople. Since Koszta's transfer to the hospital, the Austrian authorities have made use of every possible intrigue to induce him to escape from there. This has been several times proposed to him by persons whom I have every reason to believe are Austrian emissaries, offering to conceal him in their houses, whose object, doubtless, was to have him arrested on leaving the hospital, by the Austrian spies, who are constantly hovering about the building, and restore him again to the Austrians; but Koszta was timely put on his guard by me against all such intrigues on their part.

I have been informed that, since the revolution of 1848, the emperor of Austria had granted a general amnesty to all his subjects who had taken up arms against the government, inviting those who had taken refuge in foreign countries to return to Austria in the space of six months; and that those who should fail to return in that space of time would lose the right of Austrian protection, and that he would no longer consider them as Austrian subjects.

I have endeavored to get a copy of this decree, thinking it might be useful in Koszta's case. The persons to whom I have applied for it remember that an ordinance to this effect had been issued by the emperor of Austria, but I have not succeeded in getting it.

I have the honor to be, sir, with great consideration, your obedient servant,

E. S. OFFLEY.

HON. WM. L. MARCY,
Secretary of State, Washington.

Mr. Mann to Mr. Offley.

DEPARTMENT OF STATE,

Washington, August 6, 1853.

SIR: The department learned, about ten days since, through the *public prints*, that a person, said to be in possession of a passport as an American citizen, was recently seized in the city of Smyrna, and conveyed on board an Austrian vessel then lying in the harbor.

In the same manner it has since understood that this gentleman has been placed, at the request of yourself and the Austrian consul, in charge of the French consul at Smyrna. Other details have been given, to which it is needless now to refer. The department has been waiting with much interest, from day to day, to receive from you the official account of these important transactions, but, as yet, nothing has come to hand, although it is well known that private parties in New York have received letters since the date of these occurrences both from Smyrna and Constantinople.

It is to be presumed that you could not have been so negligent in regard to your official duties, as to omit altogether transmitting information of them to the department. Should it appear, however, that there was any delay on your part in writing to the department, or in embracing the first opportunity of sending despatches, the fact will be at once reported to the President. You will in future take care also to send a duplicate of your several communications by different conveyances.

I am, sir, &c.,

A. DUDLEY MANN,
Acting Secretary of State.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

Mr. Marcy to Mr. Offley.

DEPARTMENT OF STATE,

Washington, August 13, 1853.

SIR: Your interesting despatch, under date of July 5, marked duplicate, has been received, and the important questions to which it gives rise are now under grave consideration.

I am, sir, &c.,

W. L. MARCY.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

Mr. Marcy to Mr. Offley.

DEPARTMENT OF STATE,
Washington, August 31, 1853.

SIR: Referring to the despatch addressed to you by this department on the 13th instant, in which the receipt of your despatch of the 5th ultimo was acknowledged, and you were informed that the important questions growing out of the kidnapping of Martin Koszta were under consideration, I have now to instruct you that, while the President regrets the occurrences presented in those communications, he does not find, after the fullest attention given to the subject, any just cause for disapproving of your conduct, or that of Captain Ingraham, the commander of the United States corvette the *St. Louis*, or that of any of our diplomatic agents who took part in the matter. Though Martin Koszta was not invested with all the rights and privileges of a citizen of the United States, he was, at the time the outrage was committed upon him, entitled to the protection extended to him by the American functionaries at Smyrna. Having placed himself under the consular flag at Smyrna, and that of the United States legation at Constantinople, he had a right to be protected and respected as an American citizen, according to the immemorial usage of that country; a usage which has the obligatory character of a law in Turkey, and has been sanctioned and upheld by the highest courts instituted by the most enlightened nations for the administration of international law. You therefore did nothing more than your duty in claiming for him the protection due to one of our citizens, and you and Captain Ingraham are justified by your government in using the means you did for procuring his release from illegal imprisonment.

I am, sir, &c.,

W. L. MARCY.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

Mr. Offley to Mr. Marcy.

[No. 44.]

UNITED STATES CONSULATE, SMYRNA,
September 17, 1853.

SIR: I have the honor to acknowledge the receipt of the despatch addressed me by the Acting Secretary of State, the Hon. A. Dudley Mann, dated August 6th last past, as well as of your despatch dated August the 13th, informing me that my despatch, dated July 5th, relative to Martin Koszta, had been received by the department.

The former reached me on the 9th instant, and the latter yesterday, (the 16th.) I beg to state that immediately after the occurrence of the Koszta affair, my first care was to report the case to your excellency. The first mail that offered was that of the 6th of July by the Austrian steamer, via Trieste; and although my despatch was ready to be sent by that opportunity, I preferred forwarding it the day after by the French

steamer, via Marseilles, care of the United States legation at London, that conveyance being, in my estimation, the safest one; as I feared, if I had sent it through Austria, it might have been opened, or even destroyed.

The departure of the mail gives me only time to inform you that I have just received a despatch, and a duplicate of the same, from the United States legation, under date 15th instant, wherein it is stated that the proposal made, by the Hon. G. P. Marsh, to the Austrian minister at Constantinople, for Koszta's liberation and return to America, has been accepted by the Austrian government. I beg to enclose the duplicate of the above despatch, (subjoined A,) as well as copy of a letter from the Hon. G. P. Marsh, under date August 4th (subjoined B) to this consulate, which contains the nature of the above proposal. I deem it my duty to lay these copies before you, as some delay may possibly occur in the receipt of the despatch that Mr. Marsh has probably addressed you thereon.

I have the honor to be, sir, with great consideration, your obedient servant,

E. S. OFFLEY.

Hon. W. L. MARCY,
Secretary of State, Washington.

A.

CONSTANTINOPLE, *September 15, 1853.*

SIR: The Austrian government has consented to my proposal for Koszta's liberation and return to America, on the conditions offered by me. I have not time to make the necessary arrangements before the departure of the mail of this evening, but I shall send either an agent, or more explicit instructions, by the Monday's boat.

In the mean time inquiries can be made for an opportunity of taking passage for him in an American ship sailing *direct for the United States*; and if he is destitute of means, the legation will provide the funds to pay his passage.

As, however, I have no authority to use the contingent fund of the legation for this purpose, I hope he will be able to raise the necessary means.

Koszta is to remain at the French consulate until the moment of sailing, and is then to be put on board the ship under the surveillance of the American and Austrian consulates. Of course he can on no account leave the French consulate general in the mean time, and I earnestly hope that measures will be taken to prevent any public demonstration or disturbance of any sort, either before or at the time of his embarkation.

I am, sir, respectfully yours,

GEORGE P. MARSH.

E. S. OFFLEY, Esq.,
United States Consul.

B.

THERAPIA, *August 4, 1853.*

SIR: I have this day, at the suggestion of the French ambassador, had an interview with Mr. de Bruck on the subject of Koszta's release.

I modified my former proposal, to the effect that Koszta should be put on board the first American ship sailing directly for an American port, by the French consulate or the Turkish authorities, with a stipulation that he shall not land at any Turkish or European port, and that if he voluntarily leaves the ship, our protection shall be withdrawn from him.

I *think* this proposal will be accepted, and I wish you to communicate it to Koszta, and obtain his consent to it. It will be some days (two weeks or more) before an answer can be returned from Vienna. The notorious ———, an Austrian spy and assassin, is said to have gone to Smyrna. I hope Koszta will be on his guard against *false* friends as well as open enemies.

G. P. MARSH.

E. S. OFFLEY,
United States Consul, Smyrna.

Mr. Offley to Mr. Marcy.

[No. 46.]

UNITED STATES CONSULATE, SMYRNA,
September 27, 1853.

SIR: I had the honor of addressing you on the 17th instant, answering the despatches from the Department of State, under date of 6th and 13th August last, and transmitting the duplicate of a letter I had received on that day from the minister resident at Constantinople, dated the 15th instant, stating that his proposal for Mr. Koszta's liberation had been accepted by the Austrian government; enclosing also a copy of the minister resident's letter of the 4th August, wherein the terms of the above proposal were mentioned.

On the 21st instant, Mr. J. P. Brown, dragoman of the United States legation, arrived from Constantinople, and handed me a despatch from the minister resident, dated the 19th instant, containing an extract of the agreement between the Hon. G. P. Marsh and the Austrian inter-nuncio, on Koszta's liberation, and intimating to me to act in the whole matter under Mr. Brown's general direction. The agreement was not conformable with the tenor and spirit of the above-mentioned letter of the legation, under date of August 4, to which Mr. Koszta had given his consent, at the request of the minister resident; but it contained a new proviso, to which I felt it my duty to abstain from giving my assent, under the following considerations:

The Austrian government thereby reserves to itself, "in conformity with its rights," to proceed against Koszta whenever he may be found again on the Ottoman territory. Last month Mr. Marsh refused to give his consent to a clause proposed by Baron de Bruck, which simply

provided that Mr. Koszta should not return again to Turkey, as appears by the following extract of a letter written to this consulate by Mr. Brown, under Mr. Marsh's instructions, dated the 2d of August last, wherein he says: "The internuncio wishes Mr. M. (Marsh) to provide that he (Koszta) will never return again to Turkey, which *he cannot do*. His case will, I believe, soon come to an end." It is therefore surprising that the legation should now concede more than it refused to agree to at first, especially as it knows that the prevalent opinion of Europe and of the United States has supported our conduct in this case.

I considered the condition admitted by the legation as a triumph to Baron de Bruck, and a mortification to the character of our country, the effect of which would destroy all the influence and credit that now reflects on it in consequence thereof, and would confirm the principle laid down by Austria in her manifest and in her press on this subject.

If Mr. Koszta be merely regarded as a political refugee, the pretensions of Austria, admitted by the legation in its agreement with the internuncio, are not only contrary to the laws of nations, but have also always been contested to Austria by France, England, and even Turkey itself; and the question was more particularly resolved in 1849, after the events of 1848.

But Koszta is under the protection of the United States, and, by accomplishing the laws of naturalization, he becomes entitled to the rights of a citizen; and, according to that reserve, he would not be able to return to Turkey; and in case he did, Austria would have the right to arrest him. No law authorizes the legation to forbid a citizen of the United States his liberty of action, and his right of going where he may think proper. This seemed to me to establish a dangerous principle.

Baron de Bruck having sent the agreement heretofore mentioned to Vienna for the approbation of his government, it would seem but rational that it should also be submitted to the United States government for the same purpose, so as to afford our government the same advantage, and in order that both governments should stand on an equal footing in a question of so important a nature, particularly as in all diplomatic transactions the approbation of the respective governments is always reserved.

I must also state that having acquainted Koszta with the terms agreed upon by Mr. Marsh and Baron de Bruck, he declared that he would not, by his full and free will, submit to such conditions, unless the agreement should be approved by the United States government, and which he confirmed in a letter to me under date of the 24th instant.

It further appeared to me that, by acceding to the reserve of Austria, it would have been a disavowal, by our own free will, of our previous acts, and that it would have been inconsequent. Moreover, the dignity of the legation cannot suffer from the non-execution or postponement of the agreement, as it depends on Mr. Koszta's submitting to the terms therein mentioned.

Had I acceded to the agreement for Koszta's release, it would have become an accomplished act; I would have been co-operating in the decision of a case of so grave a nature, so closely connected with and

involving the national character, and I would have been consenting to conditions that I considered to be offensive to its dignity.

Such are the considerations which have induced me to refuse giving my consent to Koszta's release until I receive your instructions thereto, and which I submitted to Mr. J. P. Brown, together with your despatch of the 13th of August last; and as he insisted on the execution of the agreement, I addressed him officially, under date of the 2d instant, informing him of my resolution not to give my consent for the removal of Koszta under the terms specified in the agreement.

I trust, sir, that my proceedings will meet your approbation, and that the feelings that guided me will be appreciated by you, as I am conscious of having acted in support of the dignity of our country, and of our highly praised and cherished principles.

I have the honor to be, &c.,

E. S. OFFLEY.

Hon. W. L. MARCY,
Secretary of State, Washington.

Documents enclosed.

- A. Hon. G. P. Marsh's letter of the 4th of August, 1853.
- B. Hon. G. P. Marsh's letter of the 19th September, 1853.
- C. E. S. Offley's letter to G. P. Marsh, September 23, 1853.
- D. E. S. Offley's letter to J. P. Brown, September 22, 1853, and his answer of the 23d of September, 1853, and E. S. Offley's reply of the 23d of September, 1853.
- E. E. S. Offley's letter to G. P. Marsh, September 26, 1853.
- F. Martin Koszta's letter to E. S. Offley, September 24, 1853.

D.

UNITED STATES CONSULATE, SMYRNA,
September 22, 1853.

SIR: After the interview that I had the pleasure of having with you yesterday, I again attentively perused the despatch you handed me from the Hon. G. P. Marsh, relative to the agreement he has made with M. de Bruck for the release of Mr. Koszta from the French hospital, and his transfer to an American vessel sailing direct for the United States; and I now beg to inform you that for reasons which I shall have the honor of laying before the honorable G. P. Marsh, by to-morrow's boat, and which I explained to you yesterday, I deem it my duty not to give my consent for his removal from the French hospital.

I have the honor to be, &c.,

E. S. OFFLEY.

J. P. BROWN, Esq., &c., *Smyrna.*

Mr. Brown's answer to the foregoing.

SMYRNA, *September 23, 1853.*

SIR: I have received this morning your letter of yesterday, in which you make known to me, that you "deem it your duty not to give your consent to the removal of Mr. Koszta from the French hospital;" and, in reply, have to request that you will conform to the instructions which I handed you on my arrival, from the minister resident, on the subject of this person's being placed on board of an American vessel leaving direct for the United States.

I do this, sir, as a point of duty towards the chief of the legation, under whose instructions I act, and because I do not believe that a delay will be productive of any useful change in the arrangement agreed upon by him and the Austrian minister.

I shall communicate with the minister resident on the subject of the course adopted by you, and await here his further instructions.

I remain, sir, &c.,

J. P. BROWN.

E. S. OFFLEY, Esq., &c.

Mr. Offley's reply to Mr. Brown.

SMYRNA, *September 23, 1853.*

SIR: I have the honor to acknowledge the receipt of your to-day's note, and, in reply, beg to refer you to the letter I had the honor of handing you this morning.

I remain, sir, &c.,

E. S. OFFLEY.

J. P. BROWN, Esq., &c., *Smyrna.*

Correct copies.

E. S. OFFLEY.

Mr. Offley to Mr. Marcy.

[No. 47.]

UNITED STATES CONSULATE, SMYRNA,
October 7, 1853.

SIR I have the honor to acknowledge the receipt of your despatch under date of 31st August last, conveying me the gratifying intelligence that the President has been pleased to approve of my conduct regarding the release of Mr. Martin Koszta from the hands of the Austrian authorities of this place.

Allow me, sir, to take the liberty of assuring you, and through you our very respected President, that my earnest desire is, and always will be, to merit the confidence bestowed upon me in the discharge of my duties

As the contents of your above despatch established the position and the rights of Mr. Martin Koszta to the protection of the United States, I have deemed it my duty to transmit him a copy of the same, and I now beg to enclose a copy of a letter which he addressed me on the 5th instant, wherein he begs me to express his gratitude to the United States government.

I have the honor to be, sir, your most obedient servant,
E. S. OFFLEY.

[Translation.]

MONSIEUR LE CONSUL: I have had the honor to receive the copy of the despatch of the honorable Secretary of State, dated the 31st of August, on the subject of my position, which you had the kindness to communicate to me. I see from it, with immense satisfaction and gratitude, that the government of the United States considered me as placed under the efficacious protection of the American flag, as any other citizen.

Hereafter certain of your support, (the only support I can or ought to invoke,) and in the unforeseen circumstance that the consul general of France should think fit no longer to extend to me the hospitality I have found in the French hospital, I beg that you will protect me.

I avail myself of this occasion to thank you with all my heart for all you have done in this noble cause, and under such difficult circumstances; and I beg that you will be the interpreter with the government of the United States of my profoundest gratitude.

Please to accept my respects, and I am your humble servant,
MARTIN KOSZTA.

Mr. E. S. OFFLEY,
United States Consul at Smyrna.

A correct copy.

E. S. OFFLEY.

SMYRNA, *October 5, 1853.*

Mr. Offley to Mr. Marcy.

[No. 48.]

UNITED STATES CONSULATE, SMYRNA,
October 7, 1853.

SIR: I respectfully beg to refer to my despatch under date of 27th September last, with the enclosed documents, which I forwarded per steamer direct for Liverpool, and duplicate of the same on the following day, via Marseilles, wherein I had the honor of informing you of the reasons that induced me to abstain from giving my consent to the agreement between the Hon. G. P. Marsh and the Austrian internuncio, for Koszta's removal from the French hospital of this place.

On the 30th ultimo I received the enclosed despatch (sub. A) from the minister resident, under date 26th of the same month, in answer to my despatch of the 23d. This despatch was transmitted to me in a letter (sub. B) from Mr. J. P. Brown, dated the 30th, requesting me to inform him "whether or not" I would give my signature for Koszta's release from the charge of the French consul.

I replied to Mr. Brown, on the same day, (sub. C,) that I would inform him of my decision on receipt of an answer from Mr. Marsh to my letter of the 26th ultimo, wherein I had enclosed a copy of a letter from Mr. Koszta, stating his reasons for refusing to submit to the agreement between M de Bruck and the minister resident, and his wish to have it submitted to the United States government for its approval. On the same day I received a letter (sub. D) from Koszta, dated the 30th September, requesting me to call upon him, as Mr. Brown had been to see him, and had used every possible means of intimidation, to make him submit to the terms of the agreement and leave immediately for the United States.

These steps on the part of Mr. Brown induced me to believe that an understanding had taken place between the minister resident, the Austrian internuncio, and the French ambassador, and that the two latter had given orders to their consuls here to recognise Mr. Brown in my stead should I refuse to give my consent for Koszta's embarkation, although this consent is one of the essential conditions of the convention signed by me and the Austrian consul, on the 2d of July last.

Being, however, deprived of despatches from the State Department, (the despatch of the 31st of August not having been then received,) and in consequence of the positive and strong language held by Mr. Brown, as well as that of the minister resident, in his despatch of September 26, the only advice I could give Koszta, in this instance, was to postpone giving Mr. Brown a decisive answer as long as possible, as the mail from Europe, which was due on that day, might bring despatches from the State Department, throwing more light on the course he should pursue, at the same time I assured him of the protection of the consulate.

On the following morning, the 1st of October, I received your despatch of August 31, which I hastened to bring to the knowledge of Mr. Brown, in the hope that he might have found sufficient importance in its contents to induce him to reconsider the case, and direct thereby his further action. But after having perused it, he not only continued firm in his former opinion, but also went to Mr. Koszta, and told him that if he did not leave immediately for the United States, according to the agreement, the legation would withdraw from him its protection, and that the French consul would send him out of the hospital, and that he would fall again into the hands of the Austrians. Notwithstanding all that Mr. Brown had told Koszta, he persisted in his refusal, under the conviction that the United States protection would not fail him. Mr. Brown then declared that the legation had nothing more to do with him, and on the same evening left for Constantinople.

On the 1st instant I addressed the Hon. G. P. Marsh, (sub. E.) enclosing a copy of your above despatch of the 31st of August last.

The position of Koszta has not changed; but should he be driven out

of the French hospital, as Mr. Brown intimated, I will give him the efficacious protection of the American flag, according to the tenor of your aforementioned despatch of the 31st of August.

His expulsion from the hospital, however, is not at all probable, the French consul having read me, some time since, a despatch from his government, stating that it had approved the charge he had taken, and that the only thing that might be regretted would be a disapprobation of the United States government of the steps taken by its functionaries, in which case the French government would be under the necessity of giving him its protection.

I beg to bring to your notice that the proposal of the Hon. G. P. Marsh to Baron de Bruck, for Koszta's release, was sent to Vienna about the 30th of July last, and was kept there in abeyance until about the middle of September, when they had no doubt heard of the views of the United States government on the matter, and they then forwarded it to Constantinople for its execution, and authorized the internuncio, as it appears in Mr. Marsh's letter to this consulate, of the 26th of September, "to settle the arrangement relative to the same, according to Mr. Marsh's proposal;" therefore the clause of reserve must have been added in the agreement by Baron de Bruck; and according to the above authorization from his government, he had the power of withdrawing it therefrom, had the Hon. George P. Marsh insisted on the same.

I have the honor to be, sir, your most obedient servant,

E. S. OFFLEY.

Hon. W. L. MARCY,
Secretary of State, Washington.

SMYRNA, *September 30, 1853.*

SIR: I have the honor to enclose you a letter from the minister resident, on the subject of the departure from this place of Mr. Martin Koszta. Be so good as to let me know, at your earliest convenience, whether or not you are willing to give your signature for his release from the charge of the French consul.

I remain, sir, with very great respect, your obedient servant,

JOHN P. BROWN.

E. S. OFFLEY, Esq.,
United States Consul, Smyrna.

A correct copy.

E. S. OFFLEY.

UNITED STATES CONSULATE, SMYRNA,
September 30, 1853.

SIR: I have the honor to acknowledge the receipt of your letter of this day, with the enclosed despatch from the minister resident, under

date 26th instant, on the subject of the departure of Mr. Koszta from this place, and wherein you request me to let you know whether or not I will give my signature for his release from the charge of the French consul.

The minister resident's above letter, as you have no doubt remarked, only acknowledges receipt of my despatch dated the 23d instant, whilst I had also addressed him on the 26th instant, enclosing copy of a letter from M. Martin Koszta to this consulate, wherein he stated his reasons for refusing to submit to the agreement between Mr. de Bruck and Mr. Marsh, and requested that the same (the agreement) should be sent to the United States government, and if approved by it, that he would then unhesitatingly give his consent to the same. Mr. Marsh intimates in his letter that if Koszta refuses to accede to the agreement, he would then inform the Austrian internuncio and the French embassy of the same. And he further says, that "Koszta must accept the terms of the agreement if he expects further aid or countenance from the legation."

Koszta's written refusal to accede to the agreement leads me to conclude that Mr. Marsh must have acted as he intimates, and has abandoned the case.

On receipt of Mr. Marsh's expected answer, I shall inform you of my decision.

I remain, respectfully, your obedient servant,

E. S. OFFLEY.

JOHN P. BROWN, Esq., &c., Smyrna.

A correct copy.

E. S. OFFLEY.

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UNITED STATES CONSULATE, SMYRNA,

October 1, 1853.

SIR: I had the honor to receive on the 30th ultimo your despatch, under date of September 26th, and I now beg to enclose a copy of a despatch that I have just received from the honorable Secretary of State, dated the 31st of August, on the subject of Koszta, which comes in support to the remarks contained in my letter of the 23d instant relative to the terms of the agreement between yourself and Baron de Bruck for Koszta's removal from the French hospital.

I regret that I did not receive by to-day's boat an acknowledgment to my despatch of the 26th instant, wherein I transmitted you a copy of a letter from Mr. Koszta, in which he states his reasons for refusing to give his consent to the terms of the above agreement, and wherein he requests me to submit the same to the United States government for its approbation, which I have done; especially as I hoped you would have consented to this delay, which, in my opinion, he has the right to expect.

I shall take the liberty to remark, that, after the perusal of the above despatch from the Secretary of State, the legation cannot refuse to

Koszta its further aid and countenance, and that the threats of Mr. J. P. Brown to Mr. Koszta, "that the protection of the United States shall be withdrawn from him, and that the French consul will kick him out of the French hospital should he continue to refuse to leave for the United States on the terms mentioned in the agreement," could not be put into practice without an infraction to the rights of men.

Mr. Koszta has begged me to inform you that he continues to keep good his engagement towards you for leaving Smyrna on the terms mentioned in your letter of the 4th of August last, which did not contain the proviso of the Austrian government relative to the reserve it makes of its rights to proceed against him whenever he is again found on the Ottoman territory, which I trust you will be able to obtain.

I have the honor to be, sir, your obedient servant,

E. S. OFFLEY.

Hon. G. P. MARSH,

Minister Resident of the United States at Constantinople.

Mr. Offley to Mr. Marcy.

[No. 49.]

UNITED STATES CONSULATE, SMYRNA,

October 7, 1853.

SIR: I have the honor to refer to my despatch of to-day's date, and I now beg to transmit herewith a copy of a despatch from the Hon. George P. Marsh, which I received to-day, and my answer thereto.

Though I observe some contradictions in Mr. Marsh's letters, I have thought it my duty to consent to Mr. Koszta's embarkation, under the positive assurance of Mr. Marsh that the reserve of Austria is no part of the agreement.

I have the honor to be, sir, your most obedient servant,

E. S. OFFLEY.

Hon. W. L. MARCY,

Secretary of State.

UNITED STATES CONSULATE, SMYRNA,

October 7, 1853.

SIR: I have the honor to acknowledge the receipt of your letter under date of 5th of October, and take the liberty to quote two paragraphs of your despatch dated 19th September: "and the following extract from the internuncio's letter specifies the *terms of the agreement*;" then follow the conditions of the embarkation, and the clause, "Le gouvernement imperial se reserve cependant de proceder," &c. You then give me instructions for Koszta's embarkation, and say: "you will take from Koszta a writing testifying his full and free agreement to the *terms above stipulated*." By "terms above stipulated," and "terms of the agreement," I could not but understand that the reserve of Austria was a part of the agreement, and a clause mutually consented to between you and Baron de Bruck.

In your letter of the 5th instant you state that "the reservation in M. de Bruck's letter is no part of the agreement between him and yourself, and that no assent to the principle insisted on by Austria has been given by you," and that the Hon. Secretary of State has fully instructed you on the whole subject. Such being the case, I will, without loss of time, attend to his embarcation, according to your previous instructions, under your assurance that the reserve of Austria, "le gouvernement imperial," &c., is no part of the agreement, and that you have not given your consent to it.

I have been to see Koszta, and he agrees to his departure under the explanations contained in your above despatch of the 5th instant. I have likewise seen Mr. Weckbecker, and I do not anticipate any difficulty on his part as to the arrangements for Koszta's embarcation, which will probably take place to-morrow.

It was painful for me to observe that you seem to consider that my refusal for Koszta's relief was caused "by an irritation growing out of my personal relations with Mr. Brown," and not by the clause aforesaid. The cause, however, can be easily understood on reading my previous letters on this subject.

I have the honor to be, sir, your obedient servant,

E. S. OFFLEY.

Hon. G. P. MARSH,

Minister Resident of the United States, Constantinople.

Mr. Offley to Mr. Marcy.

[No. 50.]

UNITED STATES CONSULATE, SMYRNA,
October 17, 1853.

SIR: I respectfully beg to refer to my three despatches of the 7th instant, Nos. 47, 48, 49, duplicates of which I shall have the honor of transmitting by to-morrow's mail *via* England.

The embarcation of Mr. Martin Koszta took place on the afternoon of the 14th instant, on board the barque "Sultana," of Boston, Charles Watson, master, which left for Boston early on the following morning. I beg to enclose a copy of a letter dated the 14th instant, addressed to this consulate by Mr. Koszta, which he handed me after his embarcation; as well as a copy of a letter addressed by me and the Austrian consul to the French consul general, demanding the release of Koszta, according to our convention of July 2d last; also, copy of a letter that I have this day written to the Hon. George P. Marsh, informing him of Koszta's departure.

Trusting that you will approve of my conduct, I remain, sir, with great consideration, your obedient servant,

E. S. OFFLEY.

Hon. W. L. MARCY,

Secretary of State, Washington.

[Translation.]

SIR: I had the honor of an interview with his eminence Mr. Brown this afternoon, and he was so kind as to inform me, that during his eminence's stay at Smyrna, his excellency, Mr. Marsh, had received positive instructions from the President of the United States to bring my matter to a close, and that once at liberty, the question of right will be the subject of ulterior negotiations between the two governments. I said that I never would give my consent to the treaty concluded by his excellency Mr. Marsh and the internuncio of Austria, and that I should never acknowledge any right that Austria may pretend to have over me. His eminence replied that these terms were only inserted in the treaty with reference to the American legation, and the reversal, that I would give my full and free consent to all the conditions of that arrangement; would also have been with reference only to the American legation; but now I must not give any reversal, nothing in writing, but accept my freedom at once, and this very evening start for America. In the event of my refusal, his excellency will immediately withdraw from me the protection of the American flag, and will also tell Mr. Pichon, consul of France, to refuse me his hospitality, and to turn me out of the hospital.

As it is impossible for me to depart at once, and as I really want to reflect upon this point, I have begged his eminence to grant me a few days of delay, and also the liberty to consult you; he has been so kind as to grant me a delay until to-morrow at 12 o'clock.

This time is, indeed, very short, and I beg that you will pardon me if I entreat that you will grant me a few moments, and to come to me.

I remain your very obliged servant,

MARTIN KOSZTA.

Mr. E. S. OFFLEY,

United States Consul, Smyrna.

Correct copy.

E. S. OFFLEY.

SMYRNA, *September 30, 1853.*

[Translation.]

SMYRNA, *October 14, 1853.*

MONSIEUR LE CONSUL GENERAL: We have had the honor to inform you that, conformably with the terms of our convention of July 2d, last, and in pursuance of the instructions of our respective ambassadors at Constantinople, Mr. Martin Koszta will take passage, under our supervision, on board the first American vessel.

We beg you, therefore, M. consul general, to give the necessary orders to the doorkeeper of the French hospital, in order that Mr. Martin Koszta may be at liberty to go out at the time of his embarkation.

Be pleased at the same time, M. consul general, to accept our sincere thanks for the extreme kindness and amiability you have evinced towards us on this occasion.

We have the honor to remain your very humble servants,
WECKBECKER.
E. S. OFFLEY.

Mr. T. PICHON,

Consul General of France, &c., Smyrna.

A correct copy.

E. S. OFFLEY, *United States Consul.*



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